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PUBLISHERS' NOTE

THIS volume contains the relevant Statutes, Orders, Circulars and Memoranda, Cases and Decisions of the year 1939. The same classification of titles has been followed as in the first continuation volume (Vol. 15), the emergency legislation being dealt with under the various titles.

Two statutes of considerable importance which form a part of the ordinary legislation of the year are the Limitation Act, 1939 (title ACTIONS BY AND AGAINST LOCAL AUTHORITIES), by which the law as to limitation of actions is codified, and the London Government Act, 1939 (title LONDON), by which the law relating to the constitution and administrative organisation of the London County Council and the twenty-eight metropolitan boroughs is codified.

The Orders made under the emergency legislation are already extremely numerous, and their number increases *de die in diem*. Obviously it is impossible to publish them all, though the Editors are assured they have selected everything of general importance. The annotation is up to date to the 1st April, 1940, that is to say any changes or modifications of the law for 1939 up to that date have been noted, although, of course, the legislation itself for the year 1940 falls to be included in the next volume. It must not be assumed, however, that the annotation is up to date at the time of publication.

The cumulative supplement referred to in the publishers' note to Vol. 15 is in active preparation and the publishers hope to publish the first number thereof next spring. This supplement will bring up to date the titles in the main work and succeeding continuation volumes.

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July, 1940.

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All England Law Reports	All E. R.
Attorney-General	A.-G.
Brothers	Bros.
Company	Co.
Corporation	..	..	..	..	..	..	Corp'n.
Home Office	..	..	..	..	..	..	H.O.
Justices ..	..	..	..	..	..	..	JJ.
Limited ..	..	..	..	..	..	..	Ltd.
London County Council	..	..	..	..	..	..	L.C.C.
Local Government Act	..	..	..	..	..	..	L.G.A.
Medical Officer of Health	..	..	..	..	..	..	M.O.H.
Ministry of Agriculture and Fisheries	..	..	..	..	..	..	M. of A.
Ministry of Health	..	..	..	..	..	..	M. of H.
Ministry of Transport ..	..	..	..	..	..	..	M. of T.
Public Health Acts	..	..	..	..	..	..	P.H.A.
Railway Company	..	..	..	..	..	..	Rail. Co.
Rating and Valuation Act	..	..	..	..	..	..	R. & V.A.
Rural District Council ..	..	..	..	..	..	..	R.D.C.
Statutory Rules and Orders	..	..	..	..	..	..	S.R. & O.
Urban District Council	..	..	..	..	..	..	U.D.C.

THE ENGLISH AND EMPIRE DIGEST

In addition to the usual citation of the reports of cases in the footnotes, there will be found a reference to the volume, page, and case number at which the case appears in the Digest. Thus :

Bennett v. Stepney Borough Council, [1912], 107 L.T. 383 ;
38 Digest 101, 730.

HALSBURY'S COMPLETE STATUTES OF ENGLAND

References to Public Acts of Parliament are followed by a reference to the volume and page at which the Act or section of the Act appears in Halsbury's Complete Statutes of England. Thus :

The Local Government Act, 1933 ; 26 Halsbury's Statutes
295.

ALL ENGLAND LAW REPORTS

After cases heard since February, 1936, references are given to this series of reports thus :

Clarke v. Bethnal Green Borough Council, [1939] 2 All
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ACTIONS BY AND AGAINST LOCAL AUTHORITIES

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STATUTES

THE LIMITATION ACT, 1939

(2 & 3 Geo. 6, c. 21)

INTRODUCTORY NOTE

THIS Act consolidates, with some amendments, practically all the statutes which were generally known as the Statutes of Limitation or Limitation Acts, including the Limitation Act, 1623, ss. 3, 4, 7, the Real Property Limitation Acts, 1833 and 1874, the Crown Suits Acts, 1769 and 1861, and ss. 3-7 of the Civil Procedure Act, 1833, which are repealed. It also includes certain provisions formerly enacted in other statutes, notably the limitation provisions in section 1 of the Public Authorities Protection Act, 1893, in which case the period of limitation has been altered from six months to one year. Further the Act gives statutory expression for the first time to certain rules of common law in relation to this subject.

The effect of the new Act is to simplify the law relating to limitation of actions. Many provisions in the old Acts overlapped, while some were actually contradictory. In the new Act, for instance, the provisions as to the effect of disability, acknowledgment, fraud, etc., are all contained in Part II and are, by section 1, made to apply to all the limitations contained in Part I.

An attempt has been made in the notes to the sections and subsections of this Act to identify the provisions replaced by the section or subsection concerned, but in many cases it will be found that it is the effect rather than the substance of the old enactment which has been reproduced.

The new Act comes into force on July 1, 1940. [1]

* * * * *

An Act to consolidate with amendments certain enactments relating to the limitation of actions and arbitrations. [25th May, 1939.]

* * * * *

Actions against public authorities

21. Limitation of actions against public authorities.—(1) No action shall be brought against any person for any act done in pursuance, or execution, or intended execution of any Act of Parliament, or of any public duty or authority, or in respect of any neglect or default in the execution of any such Act, duty or authority, unless it is commenced before the expiration of one year from the date on which the cause of action accrued:

Provided that where the act, neglect or default is a continuing one, no cause of action in respect thereof shall be deemed to have accrued, for the purposes of this subsection, until the act, neglect or default has ceased. [2]

This subsection replaces s. 1 (a) of the Public Authorities Protection Act, 1893 (13 Statutes 455), which is repealed by s. 34 (4) of, and the Schedule to this Act, *post*, except so far as s. 1 (a) relates to criminal proceedings.

The effect of the new provision is to increase the period within which actions against public authorities must be brought from 6 months to one year. Otherwise the wording of the new provision is much the same as the old.

"Action." The words of the old provision were "action, prosecution or other proceeding." This section does not apply to prosecutions, but "action" includes any proceeding in a court of law, including an ecclesiastical court (see s. 31 (1), *post*). It was held under the old provision that the proceeding must be one commenced against a "person" as defendant, and must be one in which a judgment could be obtained against that defendant (*per* Buckley, L.J. in *Roberts v. Battersea Metropolitan Borough* (1914), 110 L. T. 566). See further the notes to sub-s. (2), *infra*.

As to the commencement of the action, see *R. S. C.*, Ord. 2, r. 1, and *R. v. Marshland Smeeth and Fen District Comrs.*, [1920] 1 K. B. 155; 38 Digest 37, 220.

As to "any person," see *The Ydon*, [1899] P. 236, *per* Jeune, J., at p. 239; 38 Digest 102, 732; *Lyles v. Southend-on-Sea Corpn.*, [1905] 2 K. B. 1, *per* Vaughan Williams, L.J.; 38 Digest 102, 733; and *The Johannesburg*, [1907] P. 65, *per* Barnes, P.; 38 Digest 103, 738. A pier and harbour company was held not to be within the Act in *A.-G. v. Margate Pier and Harbour Co. of Proprietors*, [1900] 1 Ch. 749; 38 Digest 102, 734. See, also, *Tilling (T.), Ltd. v. Dick Kerr & Co.*, [1905] 1 K. B. 562; 38 Digest 103, 737 (independent contractor working for public authority). On the other hand, the managers of a non-provided school were held to be within the Act in *Greenwood v. Atherton* (1939), 55 T. L. R. 222; Digest Supp.*

As to what is an "act done in pursuance, or execution, or intended execution of any Act of Parliament," see *Cree v. St. Pancras Vestry*, [1899] 1 Q. B. 693; 38 Digest 107, 764; *Toms v. Clacton U.D.C.* (1898), 78 L. T. 712; 38 Digest 106, 766; *Jeremiah Ambler & Sons, Ltd., v. Bradford Corpn.*, [1902] 2 Ch. 585; 38 Digest 102, 736; *Offin v. Rochford Rural Council*, [1906] 1 Ch. 342; 38 Digest 107, 774; *Clayton v. Pontypridd Urban Council*, [1918] 1 K. B. 219; 38 Digest 108, 777; and other cases in 38 Digest 106 *et seq.* and Digest Supp. See, also, the judgment of Scrutton, L.J. in *Scammell (G.) & Nephew, Ltd. v. Hurley*, [1929] 1 K. B. 419; Digest Supp. An Act of Parliament has been held to include a private Act (*Bennett v. Stepney Borough Council* (1912), 107 L. T. 383; 38 Digest 101, 730).

As to the meaning of "public duty," see *Bradford Corpn. v. Myers*, [1916] 1 A. C. 242, *per* Lord Buckmaster, L.C., at p. 247; 38 Digest 110, 784. And see *Pearson & Son, Ltd. v. Dublin Corpn.*, [1907] A. C. 351; 38 Digest 101, 731; *Hartin v. London County Council* (1929), 45 T. L. R. 318; Digest Supp. As to "public authority," see *Parker v. L.C.C.*, [1904] 2 K. B. 501; 38 Digest 103, 739; (county council acting in capacity of owners of tramways); *The Danube II*, [1921] P. 183; 38 Digest 103, 741 (servants of the Crown); *Salisbury v. Gould* (1904), 68 J. P. 158; 38 Digest 104, 744 (medical practitioner in private practice giving statutory notification of disease); *R. v. Kensington Income Tax Comrs.*, [1913] 3 K. B. 870; 38 Digest 121, 888 (Commissioners of Inland Revenue—see doubt expressed by Avory, J., at p. 896); *Weir v. Thomas and Atson* (1914), 79 J. P. 54; 38 Digest 106, 753 (public health officers); *Greenwood v. Atherton* (1939), 55 T. L. R. 222; Digest Supp. (managers of non-provided school); *Swain v. Southern Railway*, [1939] 1 K. B. 77; affirmed, [1939] 2 K. B. 560; Digest Supp. (railway company); *Nelson v. Cookson* (1939), 56 T. L. R. 2; Digest Supp. (doctor employed in hospital managed by county council).

As to when time begins to run, see *Polley v. Fordham*, [1904] 2 K. B. 345; 38 Digest 127, 930, and *Turley v. Daw* (1906), 94 L. T. 216; 38 Digest 127, 931.

As to the proviso, see *Hole v. Chard Union*, [1894] 1 Ch. 293; 17 Digest 91, 90; *Harrington (Earl) v. Derby Corpn.*, [1905] 1 Ch. 205; 38 Digest 127, 934; and *Morris v. Winter*, [1930] 1 K. B. 243; Digest Supp. For particular cases, see 38 Digest 127–130 and Digest Supp.

(2) The foregoing provisions of this section shall not apply to any action to which the Public Authorities Protection Act, 1893, does not apply, or to any criminal proceedings. [3]

The Public Authorities Protection Act, 1893, has been held to apply to all actions in the Chancery Division, including actions for injunctions (*Harrop v. Ossett Corpn.*, [1898] 1 Ch. 525; 38 Digest 120, 863); an action for a declaration (*Grand Junction Waterworks*

Co. v. Hampton U.D.C. (1899), 63 J. P. 503; 38 Digest 112, 803; and a *quia timet* action (*Graigola Merthyr Co. v. Swansea Corpn.*, [1929] A. C. 344; 38 Digest 113, 804); but not to interlocutory applications or appeals (*Fielden v. Morley Corpn.*, [1900] A. C. 133; 38 Digest 120, 864) or to proceedings under the Workmen's Compensation Acts (*Tuckwood v. Rotherham Corpn.*, [1921] 1 K. B. 526; 38 Digest 123, 911).

See, also, *Holsworthy Urban Council v. Holsworthy Rural Council*, [1907] 2 Ch. 62; 38 Digest 121, 878 (action to set aside compromise); *Roberts v. Battersea Metropolitan Borough* (1914), 110 L. T. 566; 38 Digest 119, 861 (certiorari); *R. v. Epsom U.D.C., Ex parte Course* (1912), 76 J. P. 389; 38 Digest 121, 883 (mandamus); *R. v. Kensington Income Tax Comrs.*, [1913] 3 K. B. 870; 38 Digest 121, 888 (prohibition); *The Burns*, [1907] P. 137; 38 Digest 122, 894 (Admiralty action *in rem*); *A.-G. v. West Ham Corpn.*, [1910] 2 Ch. 560; 38 Digest 121, 873 (proceedings by Attorney-General at relation of ratepayers); *Jacobs v. L.C.C.*, *Shaw v. L.C.C.*, [1935] 1 K. B. 67; Digest Supp. (claim by infant); *Paul (R. & W.), Ltd. v. Wheat Commission*, [1937] A. C. 139; Digest Supp. (claim under Wheat Act, 1932). See, also, the notes to sub-s. (1), *supra*.

(3) The enactments specified in the Schedule to the said Act shall, so far as they relate to the limitation of actions, prosecutions or other proceedings in England and are not repealed by the said Act, be repealed.

[4]

* * * * *

32. Saving for other limitation enactments.—This Act shall not apply to any action or arbitration for which a period of limitation is prescribed by any other enactment, or to any action or arbitration to which the Crown is a party and for which, if it were between subjects, a period of limitation would be prescribed by any other enactment:

Provided that section twenty-one of this Act (which relates to actions against public authorities) shall apply to any action for which a longer period of limitation is prescribed by any such other enactment. [5]

33. Provisions as to actions already barred and pending actions.—
—Nothing in this Act shall—

(a) enable any action to be brought which was barred before the commencement of this Act by an enactment repealed by this Act, except in so far as the cause of action or right of action may be revived by an acknowledgment or part payment made in accordance with the provisions of this Act; or

(b) affect any action or arbitration commenced before the commencement of this Act or the title to any property which is the subject of any such action or arbitration. [6]

34. Short title, commencement, extent and repeal.—(1) This Act may be cited as the Limitation Act, 1939.

(2) This Act shall come into operation on the first day of July, nineteen hundred and forty.

(3) This Act shall not extend to Scotland or Northern Ireland.

(4) The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule. [7]

Section 34

SCHEDULE

ENACTMENTS REPEALED

Session and Chapter.	Title or Short Title.	Extent of Repeal.
* * 56 & 57 Vict. c. 61 * *	* * * The Public Authorities Protection Act, 1893. * * *	* * Paragraph (a) of section one, except so far as it relates to criminal proceedings. * *

[8]

CASES

Accident in Swimming Bath—Permissive Power to Provide Swimming Bath—“In pursuance . . . of any public duty or authority”—Solicitor and Client Costs—Public Authorities Protection Act, 1893 (c. 61), s. 1 (b)—Public Health (London) Act, 1936 (c. 50), s. 167.

Defendant corpn. was empowered, but not obliged, under the Public Health (London) Act, 1936, s. 167, to provide public swimming baths. In an action for damages for personal injuries alleged to have resulted from the negligence of defendants in the management of their swimming baths, judgment was given for defendants, on the ground of absence of evidence of negligence. It was thereupon contended that, in the circumstances of this case, defendants were a “public authority” within the meaning of those words in the Public Authorities Protection Act, 1893, s. 1, and were entitled to costs as between solicitor and client :—

Held : defendants in providing public swimming baths were acting in pursuance of a “public duty or authority” within the Public Authorities Protection Act, 1893, s. 1 (b), and, therefore, were entitled to costs as between solicitor and client.—CLARKE v. BETHNAL GREEN BOROUGH COUNCIL, [1939] 2 All E. R. 54 ; 160 L. T. 293 ; 103 J. P. 160 ; 83 Sol. Jo. 218 ; 37 L. G. R. 280 ; Digest Supp. [9]

Common Employment—Amalgamation of Undertakings—Transport Vehicles—Whether Doctrine Applies to Transport Vehicles en route—Bus Conductor Injured by Tram.

Plaintiff was a bus conductor who was injured as a result of a collision between his bus and a tram, due to the negligence of the tram driver. Both plaintiff and the tram driver were in the employ of the London Passenger Transport Board, and it was contended that the doctrine of common employment applied. Plaintiff had been in the service of the London General Omnibus Co. before that company was absorbed in the London Passenger Transport Board :—

Held : there was no implied term in the contract of employment that, where two of defendants’ vehicles were proceeding independently through the streets, plaintiff had placed himself, with regard to the negligence of a fellow-servant, in a position different from that with regard to the negligence of any other driver. The doctrine of common employment did not apply to this case.—METCALFE v. LONDON PASSENGER TRANSPORT BOARD, [1939] 2 All E. R. 542 ; 108 L. J. K. B. 733 ; 160 L. T. 599 ; 103 J. P. 246 ; 55 T. L. R. 700 ; 83 Sol. Jo. 357 ; Digest Supp.—C. A. [10]

Limitation of Actions—Alleged Negligence of Medical Officers of County Hospital—Action against Officers—Whether Entitled to Protection of Act—Public Authorities Protection Act, 1893 (c. 61), s. 1.

The two defendants were assistant medical officers at the West Middlesex County Hospital. It was alleged that they had negligently conducted an operation upon the infant plaintiff. This action was brought more than six months after the date of the alleged negligence and defendants claimed the protection of the Public Authorities Protection Act, 1893. For plaintiff it was contended that defendants were independent contractors and not a public authority acting in pursuance of a public or statutory duty :—

Held : as the duty imposed upon the public authority was one which could only be performed by individuals, these officers of a public

authority were performing a public duty imposed upon the authority and entitled to the protection of the Act.—NELSON *v.* COOKSON, [1940] 1 K. B. 100; [1939] 4 All E. R. 30; 109 L. J. K. B. 154; 161 L. T. 346; 103 J. P. 363; 56 T. L. R. 2; 83 Sol. Jo. 871; Digest Supp. [11]

ADOPTION OF CHILDREN

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CASES

Hoardings—Erected without Submitting Plans and Sections to Local Authority—Advertisement Separated into a Number of Smaller Pieces—Whether Constituted a “hoarding”—Infringement of Bye-law—Advertisements Regulation Act, 1907 (c. 27), s. 2 (1).

Appellants erected or fixed, or caused to be erected or fixed, at a certain part of a public street an advertisement which was separated into a number of smaller pieces, each less than 12 feet in height, without previously submitting plans and sections to the local authority. Appellants were thereupon charged with having unlawfully infringed a certain bye-law made by the local authority under the Advertisements Regulation Act, 1907, s. 2 (1), for the regulation and control of hoardings and similar structures used for the purpose of advertising when they exceed 12 feet in height. The magistrate convicted appellants, holding that the fact that the whole advertisement was separated into a number of smaller pieces; each less than 12 feet in height, did not evade the regulations. Thereupon this appeal was brought, and appellants contended that the panels or pieces, constructed and fixed in that manner, did not constitute an advertisement hoarding within the meaning of the bye-law :—

Held : the panels, as constructed and fixed, did constitute an advertisement hoarding within the meaning of the bye-law, and appellants were rightly convicted.—HORLICKS, LTD. *v.* GARVIE, [1939] 1 All E. R. 335; 83 Sol. Jo. 239; 37 L. G. R. 251; Digest Supp., D. C. [12]

Regulation—Amenities of Public Park—Validity of Bye-law—Advertisements Regulation Act, 1907 (c. 27), s. 2 (2).

Respondents exhibited on a flank wall of certain premises three advertisements, of which only one related to the trade or business carried on upon those premises. The premises were within 50 yards of a public park, and the advertisements were visible from that park. The local authority, acting under powers granted to them by the Advertisements Regulation Act, 1907, s. 2, had passed a bye-law providing that advertisements should not be exhibited within 50 yards of specified public parks so as to be visible from them unless such advertisements related to the trade or business carried on upon the premises :—

Held : the bye-law was *intra vires* the local authority, although it

did not contain any provision requiring that the amenities of the neighbourhood had to be injuriously affected in order to constitute an offence thereunder.—TWICKENHAM CORPN. v. SOLOSIGNS, LTD., [1939] 3 All E. R. 246; 161 L. T. 22; 103 J. P. 263; 55 T. L. R. 789; 37 L. G. R. 424; Digest Supp.—D. C. [13]

AIR-RAID PRECAUTIONS

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STATUTES

THE CIVIL DEFENCE ACT, 1939

(2 & 3 GEO. 6, c. 81)

PRELIMINARY NOTE

This Act is largely supplementary to the Air-Raid Precautions Act, 1937 (30 Statutes 1025), and some of its sections are given retrospective effect to 22nd December, 1937, when that Act came into force. The Act of 1937 had as its principal purpose the preparation of local schemes of defence. The present Act deals largely with the protection of individual buildings and provides for the adjustment of the cost between various interests. The Act was passed before the outbreak of war and was intended to produce a state of preparedness. Some of its provisions have been supplemented, and in practice replaced, by provisions contained in the Defence Regulations.

The Act makes provision for the construction of both public and private air-raid shelters and the provisions as to private shelters in business premises are complicated. The exemption from rating of works for air-raid protection contained in the Rating and Valuation (Air-Raid Works) Act, 1938 (31 Statutes 614) is extended.

The Act also makes provision for the "black-out" and for camouflage, the evacuation of the civil population, and many miscellaneous matters.

The compensation provisions are important and difficult, and will be found to give rise to some anomalies in practice.

The Act has been fully annotated and attention is called in the notes to some of the difficulties which seem likely to arise in practice, and to such of the provisions as appear to be superseded by the Defence Regulations. [14]

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An Act to make further provision for civil defence and for purposes connected therewith. [15] [13th July 1939.]

PART I

THE MINISTER

1. Transfer of functions of Secretary of State.—(1) His Majesty may by Order in Council transfer all or any of the functions of the Secretary of State under the Air-Raid Precautions Act, 1937 (hereinafter referred to as "the Act of 1937") to such other Minister of the Crown as may be specified in the Order, and, as respects any

period during which the Order is in force, references in the Act of 1937 to the Secretary of State shall, except as otherwise expressly provided in the Order, be construed as references to the Minister so specified.

(2) In this Act, except in Part VII thereof, the expression "the Minister" means the Minister specified in the Order for the time being in force under subsection (1) of this section, or if no such Order is in force, the Secretary of State.

(3) The Minister may make arrangements for the exercise on his behalf of any of his functions under the Act of 1937 or this Act by any other Minister of the Crown.

(4) Anything done before the commencement of this Act in exercise or purported exercise of any functions conferred or imposed by the Act of 1937 on the Secretary of State shall, if done at his request by any other Minister of the Crown, be as valid and effective for all purposes as if it had been done by the Secretary of State. [16]

An order was made under subsection (1) of this section, entitled the Civil Defence (Transfer of Functions) Order, 1939, dated 25th July (S.R. & O. 1939 No. 862), transferring to the Lord Privy Seal the functions of the Secretary of State under the Air-Raid Precautions Act, 1937. Subsequently the Minister of Home Security Order, 1939, dated 4th September, S.R. & O. 1939 No. 1142, transferred to the Minister of Home Security "all functions exercisable under the Air-Raid Precautions Act, 1937, and the Civil Defence Act, 1939, by the Lord Privy Seal", references to the two Acts including references to any Order in Council, order, rule, regulation, byelaw and scheme made thereunder.

PART II

PUBLIC SHELTERS, &C.

2. Designation of premises.—(1) Where it appears to the local authority that the whole or any part of a building is or can be made suitable—

(a) for use as a public air-raid shelter ; or

(b) for use, in the event of hostile attack, by the local authority in carrying out any of their civil defence functions,

the local authority may post in the building or part a notice declaring that that building or part may be required for use for public purposes of civil defence. [17]

(2) Where the local authority post such a notice, they shall notify the Minister and take such steps as appear reasonably practicable to bring the contents of the notice to the knowledge of the persons having estates or interests in the building or part of a building, and section fifteen of the Land Charges Act, 1925, (which relates to the registration of local land charges) shall apply in relation to such a notice as if the notice were a local land charge and the notice shall be registered by the proper officer as a local land charge accordingly. [18]

(3) The local authority may at any time withdraw any such notice as aforesaid by posting a notice to that effect in the building or part of a building, and causing the registration of the notice as a local land charge to be cancelled. [19]

(4) A building or part of a building where a notice under subsection (1) of this section has been posted and has not been withdrawn

is in this Act referred to as "designated premises" and references in this Act to the designation of premises shall be construed accordingly.

[20]

(5) Notwithstanding anything in this section, the local authority shall not, without the prior consent of the appropriate department, designate any premises which either—

(a) are occupied by any public utility undertakers for the purposes of their undertaking, or

(b) are situate on land over which any public utility undertakers exercise any control under any enactment or order relating to their undertaking. [21]

(6) Where the occupier of any designated premises holds any part of the premises on lease, he shall, immediately he becomes aware of the designation of the premises, serve upon his immediate landlord or, where he holds different parts of the premises under different landlords, on each of his immediate landlords, notice that the premises have been designated under this section and each person upon whom such a notice is served in satisfaction of an obligation imposed by this subsection shall forthwith himself serve a copy of the notice upon his immediate landlord or landlords, if any. [22]

The following expressions are defined by section 90 (1), *post* :—

"public air-raid shelter";
 "civil defence functions";
 "appropriate department";
 "public utility undertakers";
 "occupier";
 "lease".

The local authority for the purpose of this section is defined by section 11 (1), *post*. Note that where premises are designated, under subsection (1) (b) for the purpose of an air-raid fire precaution scheme, the local authority is the fire authority, as defined by section 90 (1), *post* (see section 11 (1) (c)).

The Minister is the Minister of Home Security, see note to section 1, *ante*.

For the Land Charges Act, 1925, section 15, see 15 Statutes 538. See also Halsbury's Laws of England, 2nd Edn., Vol. 19, pp. 362 *et seq.*

Note that there is no appeal to the Minister under section 3 from the designation of premises mentioned in subsection (5) of this section (see section 3 (4)).

Apparently a notice may be withdrawn without notice to the Minister but such notice is advisable.

It is understood that the alternative powers under the Defence Regulations (see Regulations 23 and 51 (5) of S.R. & O. 1939 No. 927), are now generally used instead of the powers of this section, the Minister of Home Security having delegated under Regulation 51 (5), his power of taking possession of land to the clerks of local authorities throughout England, subject to certain safeguards, *e.g.*, a provision that no land shall be taken except with the approval of the local authority. It is to be noted that when land is taken under those Regulations, compensation is to be assessed on the less favourable terms of the Compensation (Defence) Act, 1939, section 2, instead of under section 6 of this Act, *post*. See the notes to those sections.

3. Appeal from designation of premises.—(1) Within fourteen days from the designation of any premises, any person having any estate or interest therein may appeal to the Minister against the designation thereof on the ground—

- (a) that the whole or any part of the premises is required for use for purposes of public importance and that accordingly it is inexpedient that they should be designated as aforesaid; or
- (b) that the whole or any part of the premises is required for use as a private air-raid shelter for the persons in the premises or in the building of which they form part.

(2) If on any such appeal the Minister is satisfied as to the truth

of the grounds of the appeal, he may, if he thinks fit, order that the designation of the premises shall cease to have effect, or that it shall cease to have effect as respects a specified part of the premises originally designated.

(3) Where a designation so ceases to have effect as respects the whole or any part of any premises, the premises or part shall not again be designated without the leave of the Minister.

(4) Nothing in this section applies to the premises mentioned in subsection (5) of the last preceding section. [23]

The following expressions in this section are defined :—

"designation of premises" (section 2 (4));

"an air-raid shelter" (section 90 (1)).

The Minister is the Minister of Home Security, see note to section 1, *ante*. As to appeal to the Minister, see section 75, *post*. The premises exempted by subsection (4) are those occupied or on land under the control of public utility undertakers, see section 2 (5), *supra*. Note that land similarly occupied is exempted from section 7, by subsection (6) thereof.

4. Execution of works.—Where it appears to the local authority expedient for the purpose of making designated premises suitable or more suitable for any of the purposes mentioned in subsection (1) of section two of this Act, or of keeping them suitable for any of those purposes, that works should be executed in those premises, or in the building of which they form part, or in or on any adjacent building or land, they may, if they are unable to secure the execution of those works by agreement, themselves execute those works :

Provided that—

- (a) the local authority shall not, except with the agreement of all persons concerned, begin any such works as aforesaid until the period has expired for appealing to the Minister against the designation of the premises in question or, if an appeal is brought within that period, until the determination or abandonment of that appeal ;
- (b) before entering (otherwise than with the consent of the occupier) on any premises, building or land for the purpose of executing any works, the local authority shall give to the occupier at least fourteen days' notice in writing of their intention so to do, but any such notice may be given at any time after the designation of the premises. [24]

The following expressions are defined :—

"designated premises" (by section 2 (4));

"occupier" (by section 90 (1));

"designation of premises" (by section 2 (4)).

The local authority for the purposes of this section is defined by section 11 (1), *post*.

post. The Minister is the Minister of Home Security, see note to section 1, *ante*. See also section 5,

5. Designated premises to remain unaltered.—(1) Subject to the provisions of this section, no person shall, without the consent of the local authority—

- (a) make any structural alteration in any designated premises ; or
- (b) remove or alter any works executed by, or by arrangement with, the local authority in or on any designated premises, any building of which designated premises form part, or any building or land adjacent to any designated premises :

Provided that, if the local authority refuse their consent or do

not give their consent within six weeks from the date on which application is made therefor, the applicant may appeal to a court of quarter sessions, and the court on the hearing of the appeal may authorise any alteration or removal desired by the applicant. [25]

(2) Any person who contravenes the provisions of the preceding subsection shall be liable on summary conviction to a fine not exceeding fifty pounds :

Provided that no person shall be convicted of an offence under this section in relation to any designated premises if he proves that he did not know, and had no reasonable grounds for suspecting, that the premises were designated premises. [26]

(3) Where the court by which a person is convicted of an offence under this section is satisfied that the contravention constituting the offence has rendered the designated premises in question unsuitable, or less suitable, for the public purposes for which they may be required, it may order that the local authority shall be at liberty to charge to the person convicted their reasonable expenses of again rendering the premises as suitable for those purposes as they would have been if the contravention had not taken place, and where such an order is made any such expenses of the local authority shall be recoverable by them from the person convicted as a debt. [27]

The expression "designated premises" is defined by section 2 (4), *ante*.

The local authority for the purposes of this section is defined by section 11 (1), *post*.

As to appeal to Quarter Sessions see Halsbury's Laws of England, 2nd Edn., Vol. 21, pp. 705 *et seq.*

The offence created by subsection (2) continues while the alteration or removal subsists and may be prosecuted at any time until the *status quo ante* is restored, or within six months of that restoration. The debt referred to in subsection (3) will not be a civil debt recoverable summarily before justices within section 6 of the Summary Jurisdiction Act, 1879 (11 Statutes 325) ; compare the wording of section 29 (3). *post*.

6. Compensation where works are executed.—(1) Where works are executed under the preceding provisions of this Part of this Act in or on any premises, building or land by a local authority, the occupier of the premises, building or land shall be entitled to recover from the local authority compensation for any damage he has sustained by reason of any interference with his use of the premises, building or land during the execution of the works. [28]

(2) Where by reason of the execution aforesaid of any works, the usefulness of any premises, building or land is impaired, the local authority shall by way of compensation pay to the person who from time to time is the occupier of the premises, building or land, periodical sums, payable quarterly in arrear, calculated by reference to the diminution of the annual value of the premises, building or land, as the case may be, ascribable to the said impairment of the usefulness thereof. [29]

(3) Where the designated premises in or in connection with which works were executed as aforesaid cease to be designated premises, the payments provided for by subsection (2) of this section shall cease to be payable, but it shall be the duty of the local authority—

(a) to restore, as far as they think practicable, the premises, building or land to the condition in which they would be but for the execution of the works ; and

- (b) if, after the restoration is completed, the premises, building, or land are less in value than they would be if the works had not been executed, to pay to each of the persons having any estate or interest in the premises, building, or land such compensation, if any, in respect of the difference in value as may be reasonable :

Provided that the local authority may include in their notice withdrawing the designation of the premises a statement that to such extent as may be specified in the notice they do not intend to carry out any such restoration as aforesaid, and if such a statement is so included, their obligation to restore shall be correspondingly diminished and their obligations as to compensation shall, as respects the matters specified in the statement, be determined by reference to the state of affairs existing at the date of the withdrawing of the designation. [30]

(4) Where a local authority restore any premises, building or land in accordance with the last foregoing subsection, the occupier of the premises, building or land shall be entitled to recover from the local authority compensation for any damage he has sustained by reason of any interference with his use of the premises, building or land during the execution of the work. [31]

The following expressions in this section are defined :—

- " occupier " (by section 90 (1)) ;
- " annual value " (by section 90 (1)) ;
- " diminution of the annual value " (by section 90 (1)) ;
- " designated premises " (by section 2 (4)) ;
- " designation of premises " (by section 2 (4)) .

The local authority for the purpose of this section is defined by section 11 (1), *post*.

By section 74, *post*, any question whether any, and if so what, compensation is payable under this section is to be determined by an official arbitrator. See the notes to that section as to procedure.

Compensation under the present section will not be payable where land is requisitioned under the Defence Regulations.

Note that compensation is not payable in respect of the cost of the execution of works under section 4, *ante*. That is a matter for agreement, or in default of agreement is borne by the local authority.

Subsection (1) deals with damage caused by interference with user during the execution of works. The word " premises " in this subsection has its ordinary meaning and not the limited meaning of " designated premises " (section 2 (4), *ante*), *cf.* the expression " in or on any premises " . Therefore, if work to designated premises forming part of a building interferes with the use of another part then the occupier of that other part (whether or not, it is submitted, he be also the occupier of the designated premises), is entitled to be compensated for the loss due to that interference. When possession is taken of land (which in the Compensation (Defence) Act, 1939, includes " parts of houses or buildings ") under powers delegated by virtue of the Defence Regulations, *post*, it does not follow that such compensation as is here discussed is recoverable under section 2 of that Act, *post*.

Compensation under subsection (2) is in respect of the impairment of usefulness (*quære* if this is equivalent to " injurious affection ") during the time designation is effective. This is a difficult provision. In a simple case it may occur, for example, that room otherwise available for storage ceases to be so available during the material period and consequently space elsewhere available for other activities has in turn to be restricted. It is to be observed that compensation is not to be the actual sum lost, *e.g.*, to a trader by reason of this interference with his *business*, but the amount of the reduction in the *annual value of the premises, etc.* This may be a very different sum because the annual value (see section 90 (1), *post*) of designated premises is in effect the gross value for the purposes of the law of rating, or, apparently, in some cases the rateable value. (Note that the proviso to the definition does not except a part separately let which is not the part in which works for the provision of an air-raid shelter have been executed.) It does not follow that valuation for rating purposes will be reduced because part of a building has been designated as a public shelter even if the presence of that shelter causes loss to the sitting occupier. There may be no reduction in the rent a hypothetical tenant would give. The assessment of compensation on the basis of the artificial conceptions of rating law must give rise to anomalies and possibly injustice to some individuals.

Except in cases to which the proviso to the definition of " annual value " applies the valuation list is not conclusive as regards value either before or after the designation of the premises. The official arbitrator, however, must apply his mind to the same issues as an assessment committee have to decide, and will no doubt be interested in what they have done even if he

does not necessarily accept it. If a reduction in assessment is not obtained the occupier's prospects of recovering compensation under subsection (2) do not appear to be such as to induce him to regard his business losses with equanimity.

7. Powers of local authorities to construct underground shelters and other premises required for civil defence purposes.

—(1) Subject to the provisions of this section, the local authority may enter on any land, after giving not less than twenty-eight days' notice in writing to the occupier and, if and in so far as it is reasonably practicable so to do, to the persons having the fee simple or a lease of the land or any part thereof, and there construct—

- (a) an underground air-raid shelter or other underground premises required by the authority for use in the event of hostile attack in carrying out any of their civil defence functions ;
- (b) entrances to, and shafts and other necessary works for ventilating, draining, lighting and heating the shelter or premises.

[32]

(2) Where the local authority propose to construct any such underground shelter or premises by virtue of this section in any protected square or in any allotment, common or open space, or in any land held inalienably by the National Trust, the following provisions shall apply—

- (a) the authority shall, in addition to giving any notice required by the preceding subsection, publish by advertisement in a newspaper circulating in the area of the authority a notice describing the nature of their proposals and specifying the land to which they relate, and naming the place where plans illustrative of their proposals may be inspected at all reasonable hours by any person free of charge ;
- (b) if, within twenty-eight days after the publication of the notice, any notice of objection to the proposals is served on the local authority by any person affected thereby, the authority shall refer the notice of objection to the Minister for his consideration and shall not proceed with the proposals unless the Minister, after holding, if he thinks fit, an inquiry, has approved them, either with or without modification.

[33]

(3) The local authority may, in the exercise of their powers under this section, construct a shelter or other premises under any highway :

Provided that, in the case of a highway for the maintenance of which a highway authority is responsible, the local authority shall not exercise those powers without the consent of the highway authority (if it is a different authority) and shall not be required to serve any notices on persons having an estate or interest in the subsoil of the highway. [34]

(4) Any shelter or premises constructed by the local authority under this section, together with the entrances to the shelter or premises and any shafts or other works executed in connection with the shelter or premises, shall, on completion, vest in the authority, and the authority shall be entitled to do anything reasonably necessary for the maintenance of any such shelter, premises, entrances, shafts or

works and shall have such powers of entry as are necessary for that purpose. [35]

(5) The local authority shall pay to any person having an estate or interest in any land in which works are constructed under this section such compensation, if any, as may be just in respect of any damage caused to him by reason of the construction of the works or of anything done by the authority for the maintenance thereof. [36]

(6) The powers conferred on local authorities by this section shall be exercisable notwithstanding anything in any Act (including a local or private Act) but shall not be exercisable with respect to any land occupied by public utility undertakers or persons carrying on any hydraulic power undertaking for the purposes of their undertaking and, as respects any other land, shall be exercisable subject to the following conditions :—

- (a) that the local authority shall not interfere with any mains, pipes, apparatus, or works belonging to such undertakers or persons unless they have given to those undertakers or persons not less than fourteen days' notice of their intention so to do nor in any case in which those undertakers or persons intimate in writing to the local authority within fourteen days after the receipt of such notice their intention themselves to carry out any reasonably necessary removal, diversion, or alteration of their mains, pipes, apparatus, or works, and proceed with reasonable dispatch to complete the removal, diversion or alteration ;
- (b) that the local authority shall repay to the undertakers or persons the amount of any expenses reasonably incurred by them in connection with any such removal, diversion, or alteration ; and
- (c) that if the local authority cause any damage to any such mains, pipes, apparatus, or works, they shall repay to the undertakers or persons the amount of the expenses reasonably incurred by them in making good the damage. [37]

(7) In this section the expression "protected square" has the meaning assigned to it by section two of the London Squares Preservation Act, 1931, and the expressions "allotment," "common," and "open space," have the same meanings as in Part II of the Third Schedule to the Town and Country Planning Act, 1932, and the expression "the National Trust," has the same meaning as in section forty of the Finance Act, 1931, as amended by section twenty-seven of the Finance Act, 1936. [38]

The following expressions are defined by section 90 (1), *post* :—

- "occupier" ;
- "an air-raid shelter" ;
- "civil defence functions" ;
- "public utility undertakers".

Note also the definitions in subsection (7) *hereof*. As to "highway authority", see Halsbury's Laws of England, 2nd Edn., Vol. 16, p. 204 ; as to "local authority," see section 11 (1), *post*.

The London Squares Preservation Act, 1931, provides for the preservation and restricts the user of certain squares, gardens and enclosures specified in the Schedule to the Act in the administrative county of London. By the Town and Country Planning Act, 1932, Sched. III, Part II, the expression "common" includes any land subject to be enclosed under the

Inclosure Acts, 1845 to 1882, and any town or village green; the expression "open space" means any land laid out as a public garden, or used for the purposes of public recreation, and any disused burial ground; and the expression "allotment" means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act. By the Finance Act, 1931, section 40 (2) as amended by the Finance Act, 1936, section 27, the expression "National Trust" means the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act, 1907, and shall include the body incorporated under the National Trust for Scotland Order Confirmation Act, 1935, by the name of "The National Trust for Scotland for Places of Historic Interest or Natural Beauty." As to the English body, section 21 of the National Trust Act, 1907 (not printed in Halsbury's Statutes), enables the National Trust to declare certain land to be inalienable, with a view to securing its enjoyment to the public in perpetuity through the guardianship of the Trust. This land is not necessarily all land owned by the National Trust.

As to compensation see section 74, *post*. The basis of compensation under this section is the payment of "such compensation as may be just" in respect of damage caused by reason of the construction of the works. Such compensation is payable to any person having an estate or interest in any land in which works are constructed, and to no one else. The position of adjoining owners whose support may be affected is not dealt with and they appear to have no remedy. Although the shelter vests in the local authority, there is no payment for the subsoil, though the loss of the opportunity of utilizing it is no doubt capable of assessment as damage caused by reason of the construction of the works. Where there are shafts and entrances the surface is in effect taken and *semble* is part of the shelter. See also section 8, *post*.

8. Powers of local authorities to construct underground car-parks suitable for use as air-raid shelters.—(1) A local authority who have power under section sixty-eight of the Public Health Act, 1925, or under section twenty of the Restriction of Ribbon Development Act, 1935, to provide parking places may, for the purpose of providing underground parking places suitable also for use as air-raid shelters, exercise the like powers as are exercisable by local authorities under the last preceding section for the purposes therein mentioned, and the last preceding section shall have effect accordingly, subject, however, to the following provisions of this section :

Provided that in exercising their powers under this section the local authority shall, so far as is reasonably consistent with the interests of civil defence, have regard to the amenities of any protected square or land held inalienably by the National Trust. [39]

(2) Any such local authority as aforesaid who are not the local authority for the purposes of this Part of this Act and are not exercising functions under this Part of this Act by virtue of a delegation shall not make any proposal for the exercise of the said powers for the purpose of providing such an underground parking place as aforesaid, without the approval of the local authority for the purposes of this Part of this Act. [40]

(3) Where a local authority propose to exercise the said powers for the purpose of constructing such an underground parking place, they shall, in addition to giving notice to the persons to whom they are required to give notice by subsection (1) of the last preceding section,—

- (a) give notice in writing to the Minister and the Minister of Transport ;
- (b) publish by advertisement in a newspaper circulating in the area of the authority a notice describing the nature of their proposals and specifying the land to which they relate and naming the place where plans illustrative of their proposals may be inspected at all reasonable hours by any person free of charge. [41]

(4) If, within twenty-eight days after the publication of the notice, any notice of objection to the proposals is served on the local authority by any person affected thereby, the authority shall refer the notice of objection to the Minister of Transport for his consideration, and shall not proceed with the proposals unless the Minister of Transport, after holding, if he thinks fit, an inquiry, has approved the proposals either with or without modification. [42]

(5) The local authority shall not, whether or not any such objection or modification as aforesaid has been made, proceed with any proposals under this section unless the Minister, after satisfying himself that the underground parking place proposed to be provided will be suitable for use as an air-raid shelter, and after considering the needs of the locality, the situation and the capacity of the shelter and any other matters appearing to him to be relevant, has approved the proposals. [43]

(6) Subsection (2) of the last preceding section shall not apply in any case where the powers conferred by that section are exercised by virtue of and in accordance with this section. [44]

(7) So much of the expenses of a local authority providing a parking place by virtue of this section as is solely attributable to the rendering of the parking place suitable for use as an air-raid shelter, being expenses incurred with the approval of the Minister, shall be deemed to be expenditure for the purpose of making provision for the protection of persons and property from injury or damage in the event of hostile attack from the air for the purposes of the provisions of the Act of 1937 relating to the approval of expenditure of councils and the payment of grants out of moneys provided by Parliament in respect thereof. [45]

The expression "an air-raid shelter" (of which "air-raid shelters" in subsection (1) is the plural) is defined by section 90 (1), *post*.

The Minister is the Minister of Home Security. See note to section 1, *ante*.

Local authorities for the purposes of section 68 of P.H.A., 1925 (13 Statutes 1145), are county borough councils, borough councils, urban and rural district councils. Section 20 of the Restriction of Ribbon Development Act, 1935 (28 Statutes 278) empowers the Minister of Health by order to confer the like powers on the common council of the City of London, the councils of Metropolitan Boroughs and (except in the City) upon the L.C.C. subject to certain conditions as to consultation with the Minister and use of streets. By S.R. & O. 1936 No. 1088 (29 Statutes 293) such powers were conferred on the common council of the City and the Metropolitan Borough Councils. All such authorities may therefore exercise the powers of this section.

Approval of proposal.—By subsection (2) a local authority (as defined in subsection (1)) operating this section, which is not the local authority for the purposes of Part II of the Act (see section 11 (1)), and is not exercising powers under Part II by delegation, must obtain the approval of the local authority as defined in section 11 (1), before making the proposal.

Act of 1937.—The provisions referred to are sections 7 to 9 thereof (30 Statutes 1029)

9. Power of local authorities to construct air-raid shelters in streets.—(1) Subject to the provisions of this section, the local authority may provide a public air-raid shelter on any highway and may for that purpose construct works in or on the highway or land adjoining the highway and affix appliances to any building or wall adjoining the highway. [46]

(2) In the case of a highway for the maintenance of which a highway authority other than the local authority is responsible, the

local authority shall not exercise their powers under this section without the consent of the highway authority. [47]

(3) At least fourteen days before exercising any powers under this section the local authority shall—

- (a) serve upon the occupiers of any land or building adjoining the site of the proposed shelter a notice stating their intention to exercise the powers and specifying the general nature of the shelter ;
- (b) affix a similar notice in a prominent position upon or as near as possible to the site of the proposed shelter ; and
- (c) cause a similar notice to be published in a newspaper circulating in the area of the authority. [48]

(4) The local authority shall not, in the exercise of their powers under this section, interfere with any mains, pipes, apparatus or works belonging to public utility undertakers or persons carrying on any hydraulic power undertaking unless they have given to those undertakers or persons not less than fourteen days' notice of their intention so to do nor in any case in which those undertakers or persons intimate in writing to the local authority within fourteen days after the receipt of such notice their intention themselves to carry out any reasonably necessary removal, diversion or alteration of their mains, pipes, apparatus or works and proceed with reasonable dispatch to complete the removal, diversion or alteration, and the local authority shall repay to the undertakers or persons the amount of any expenses reasonably incurred by them in or in connection with any such removal, diversion or alteration ; and if the local authority cause any damage to any such mains, pipes, apparatus or works, they shall repay to the undertakers or persons the amount of the expenses reasonably incurred by them in making good the damage. [49]

(5) The local authority shall pay to any persons having an estate or interest in any land or building adjoining the highway on which a shelter is constructed under this section such compensation, if any, as may be just in respect of any depreciation of their property caused by the construction of the shelter. [50]

The following expressions are defined by section 90 (1), *post* :—

“ public air-raid shelter ” ;

“ occupier ” ;

“ public utility undertakers.”

The local authority for the purposes of this section is defined by section 11 (1), *post*.

Note that where the local authority, as defined above, is not the highway authority, the consent of the latter must be obtained. As to who are highway authorities, see Halsbury's Laws of England, 2nd. Edn., Vol. 16, p. 204.

As to the determination of claims for compensation, see section 74, *post*. Note that under this section compensation is payable to adjoining owners and the basis of compensation is the depreciation, *i.e.*, the reduction in capital value, of the affected premises (*cf.* notes to sections 6 and 7, *ante* and 74, *post*).

10. Agreements under Part II between local authority and occupiers of factory premises and owners of commercial buildings.—(1) The local authority may, if a representation is made to them by a factory inspector that air-raid shelter cannot reasonably be provided in factory premises for all or any of the persons working or living therein, agree with the occupier of the premises to provide, on such terms as to payments by the occupier to the local authority

as may be specified in the agreement, a public air-raid shelter which will be available for use, in whole or in part, by those persons. [51]

(2) Subsection (1) of this section shall apply in relation to commercial buildings as it applies in relation to factory premises—

- (a) with the substitution for references to the occupier of references to the owner ; and
- (b) with the substitution for the reference to a factory inspector of a reference to a local authority for the purposes of Part III of this Act, or, if that local authority is identical with the authority providing the shelter, with the omission of the reference to the representation of a factory inspector. [52]

The following expressions in this section are defined :—

- “ factory inspector ” (by section 90 (1)) ;
- “ air-raid shelter ” (by section 90 (1)) ;
- “ factory premises ” (by section 89 (2)) ;
- “ occupier ” (by section 90 (1)) ;
- “ an air-raid shelter ” (by section 90 (1)) ;
- “ commercial building ” (by section 89 (5)) ;
- “ owner ” (by section 90 (1)) ;
- “ public air-raid shelter ” (by section 90 (1)).

The local authority for the purposes of this section is defined by section 11 (1), *post*. Distinguish carefully in subsection (2) (b) “ local authority for the purposes of Part III ”, which is defined by section 25, *post*.

By Part III of the Act the occupier of factory premises and the owner of a commercial building must provide air-raid shelter for the persons working or living therein. Where this cannot reasonably be done, a public air-raid shelter for the use of such persons may be provided under this section by agreement. The shelter is provided by the local authority for the purposes of Part II (*i.e.*, as defined in section 11 (1)). The occupier or owner, as the case may be, makes such payments as are specified in the agreement. Shelter by agreement may (except where the authorities for Part II and Part III are the same) only be provided upon representations made to the local authority as respects factory premises, by a factory inspector and as respects commercial buildings where the authority for Part II and Part III of the Act are different, by the authority for Part III.

See sections 18 (6) and 19 (12), *post* as to the position of leaseholders.

11. Local authority for purposes of Part II.—(1) Subject to the special provisions of this Act with respect to the administrative county of London, in this Part of this Act the expression “ the local authority ” means, save as otherwise expressly provided, the council of a county or county borough :

Provided that—

- (a) in relation to any borough or urban district where a direction has been given under proviso (b) to subsection (2) of section one of the Act of 1937 that the council of the borough or district should prepare an air-raid general precautions scheme, the expression “ the local authority ” means that council ;
- (b) an air-raid general precautions scheme submitted by a county council may provide for the exercise by the council of a county district of any of the functions which would otherwise be functions of the county council under this Part of this Act ;
- (c) in relation to the designation of premises for use in carrying out functions which are or can be conferred or imposed by an air-raid fire precautions scheme, the expression “ the local authority ” means the fire authority. [53]

(2) So much of subsection (1) of section four of the Act of 1937 as requires the approval of the Secretary of State to the delegation of functions by a county council to the councils of county districts shall not apply in relation to any functions under this Part of this Act. [54]

The following expressions in this section are defined :—

“ designation of premises ” (by section 2 (4)) ;

“ fire authority ” (by section 90 (1)).

The special provisions regarding the administrative county of London are contained in section 84, *post*, and in Article I of the Civil Defence (London Authorities) Order, 1939, S.R. & O. No. 899. Section 1 (2), proviso (b) of the Act of 1937 (30 Statutes 1026) empowers the Secretary of State to direct that an air-raid precaution scheme be prepared by the council of a borough or urban district instead of by the county council.

Section 91 of L.G.A., 1933 (26 Statutes 355), allows local authorities to appoint a joint committee for any purpose in which they are jointly interested, and section 274 of that Act (*ibid.*, 451) authorises county councils to delegate functions to the councils of county districts. Section 4 (1) of the Air-Raid Precautions Act, 1937, (30 Statutes 1028) prohibits the exercise of these two powers in respect of air-raid precautions except with the approval of the Secretary of State. The present section restores the power to delegate without the approval of the Secretary of State, as far as functions under Part II (sections 2-11) of this Act are concerned. The result is that joint committees must still have the approval of the Secretary of State, but the delegation of functions by a county council need not.

PART III

PRIVATE SHELTERS AND TRAINING IN CERTAIN FACTORIES, MINES AND BUILDINGS

12. Application of Part III.—This Part of this Act, except the provisions thereof relating to the training of employed persons, shall apply only in relation to areas specified in that behalf in an order made by the Minister, and accordingly in this Part of this Act, except in the said provisions, references to factory premises, mines and commercial buildings shall be construed as references to factory premises, mines and commercial buildings (as defined for the general purposes of this Act) which are situate in such an area :

Provided that the Minister may by order declare that any specified factory premises, mine or commercial building shall be treated for the purposes of this Part of this Act as if the premises, mine or building were included in such an area as aforesaid, and while such an order is in force the premises, mine or building shall be so treated accordingly.

[55]

The following expressions are defined by section 89 :—

“ factory premises ” (by section 89 (2)) ;

“ mine ” (by section 89 (3)) ;

“ commercial building ” (by section 89 (5)).

The provisos to subsections (2) and (5) of section 89 should be particularly noted.

A very large number of areas have been specified under this section by the Civil Defence (Specified Areas) Order, 1939, S.R. & O. 1939 No. 893.

13. Code for occupiers of factories, &c.—(1) For the guidance of occupiers and owners of factory premises, factories, mines and commercial buildings, and other persons concerned, in providing air-raid shelter, the Minister shall issue a code prescribing requirements with which the shelter must comply, and giving advice as to incidental matters and as to methods to be followed in providing the shelter, or, if such a code has been issued before the commencement of this Act, he may by order approve the code for the purposes of this Act ; and he may from time to time by order revise any such code by revoking, varying or adding to its provisions. [56]

(2) In this Act the expression “ the code ” means the said code as for the time being in force, or, in relation to shelter provided before the issue or approval of any such code, the said code as first issued or approved, and the expression “ shelter of the approved standard ”

means air-raid shelter which at least complies with all the requirements prescribed by the code :

Provided that any air-raid shelter provided before the passing of this Act which the Minister is satisfied is substantially equivalent to shelter which complies with all the requirements prescribed by the code shall be deemed for the purposes of this Act to be shelter of the approved standard. [57]

The following expressions in this section are defined by the Act :—

- “ occupier ” (by section 90 (1)) ;
- “ owner ” (by section 90 (1)) ;
- “ factory premises ” (by section 89 (2)) ;
- “ factory ” (by section 89 (1)) ;
- “ mine ” (by section 89 (3)) ;
- “ commercial building ” (by section 89 (5)) ;
- “ air-raid shelter ” (by section 90 (1)).

A code had been issued before the commencement of the Act, under the title, “ Air-raid Shelters for Persons Working in Factories and Commercial Buildings ”. This was approved and revised by the Civil Defence (Approval and Revision of Code) Order, 1939, S.R. & O. 1939 No. 920. The code contains a large number of detailed requirements and drawings.

14. Duty of occupiers of factory premises and owners of mines and commercial buildings to make reports.—(1) It shall be the duty of every person who is the occupier of any factory premises, the owner of any mine or the owner of any commercial building—

- (a) not later than three months from the appropriate date to make a report in writing, in the case of factory premises to the factory inspector for the district, in the case of a mine to the mines inspector for the district, and in the case of a commercial building, to the local authority, stating what measures he has taken or is taking or proposing to take to provide air-raid shelter for the persons working or living in the factory premises, working in or about the mine, or working or living in the commercial building, as the case may be ;
- (b) on the completion of any works mentioned in any such report which have not been begun or are still incomplete at the date of the report, to report their completion in writing to the said inspector or local authority, as the case may be. [58]
- (2) If any person fails to make a report which he is required to make under the preceding subsection, he shall be liable on summary conviction to a fine not exceeding one hundred pounds, and, if the failure in respect of which he was so convicted continues after the conviction, he shall be liable on summary conviction to a fine not exceeding ten pounds for each day on which the failure so continues :

Provided that no person shall be convicted of an offence under this section in relation to any commercial building if he proves that he did not know, and had no reasonable ground for suspecting, that the building was a commercial building. [59]

(3) In this section the expression “ the appropriate date ” means, in relation to any factory premises, mine or commercial building, whichever of the three following dates is the latest, that is to say—

- (a) the first issue or approval of a code under the last preceding section ;
- (b) the making of an order applying this Part of this Act to, or to an area containing, the premises, mine or building ;

- (c) the fulfilment of the conditions specified in the definition of "factory premises," "mine," or "commercial building," as the case may be, contained in the provisions of this Act defining those expressions for the general purposes thereof.

[60]

The following expressions in this section are defined :—

- "occupier" (by section 90 (1)) ;
- "factory premises" (by section 89 (2)) ;
- "owner" (by section 90 (1)) ;
- "mine" (by section 89 (3)) ;
- "commercial building" (by section 89 (5)) ;
- "appropriate date" (by subsection (3), see note *infra*)
- "factory inspector" (by section 90 (1)) ;
- "mines inspector" (by section 90 (1)) ;
- "local authority" (by section 25) ;
- "air-raid shelter" (by section 90 (1)) ;
- "persons working" (by section 89 (7), (8)).

This is a continuing offence which can be prosecuted at any time during continuance or within six months of the default being remedied (Summary Jurisdiction Act, 1848, section 11; 11 Statutes 278). The daily penalties cannot be prosecuted for more than six months before proceedings are taken, *R. v. Slade, ex parte Saunders*, [1895] 2 Q.B. 247; 59 J.P. 471; 33 Digest 357, 666, or before conviction for the principal offence.

The code under section 13 having been approved on 14th August, 1939, that is the earliest date which can be the "appropriate date" and only conditions (b) and (c) in subsection (3) need now be considered. The first question to be asked is: "Is the area or are the particular premises specified under section 12, and if so when was the Order made?" In the case of the areas specified by S.R. & O. 1939, No. 893 (see note to section 12) the date of the Order is 14th August, 1939. The second question is: "At the date when the Order was made, were the premises in question factory premises, a mine or a commercial building?" If so, the date is the date on which the Order specifying the premises or area was made; if not, the date is the date on which the premises became factory premises, a mine or a commercial building (provided that an Order specifying the premises or area has then been made).

This section does not apply to factories and commercial buildings in docks or harbours to which section 41 (1), *post* has been applied.

The special defence under subsection (2) involves consideration of the definition of "commercial building" in section 89 (5), *post*. The owner will generally know, or at least have reasonable ground for suspecting, to what use his property is put, or whether, *e.g.*, it is occupied as a school or hospital. He may not know whether or not 50 persons work there, or if they do, he may not have reasonable grounds for suspecting the fact. Section 23, *post* imposes a duty, similar to that imposed by the present section on the owner, on the employer who employs more than 30 persons in, *inter alia*, a commercial building, and for the purposes of that section the expression "commercial building" has a different meaning. A building, otherwise within the definition, in which one employer employs more than 30 persons, but in which not more than 50 persons work (it may be assumed that there is no intentional differentiation between employment and working) is a commercial building for the purposes of section 23 but not for the purposes of this section.

15. Power of occupier or owner to execute works.—

(1) Subject to the provisions of this Part of this Act as to appeals and notices, the occupier of any factory premises, the owner of any mine and the owner of any commercial building may execute any works for the purpose of providing shelter of the approved standard in the premises, or, in the case of a mine or commercial building, in any part of the mine or building or on any land appurtenant to the mine or building.

[61]

(2) Before commencing any such works, the occupier of any factory premises who is not the owner of the whole of the premises and the owner of any commercial building who is not the occupier of the whole of the building shall serve upon the persons hereinafter mentioned a notice in writing stating his intention to provide shelter of the approved standard, specifying with such particularity as the occupier or owner thinks reasonably necessary the nature and situation of the shelter, and specifying the number of persons that the shelter is to be constructed to accommodate. [62]

(3) The said notice shall, in the case of factory premises, be served on the immediate landlord of the occupier, or, where he holds different parts of the premises under different landlords, on each of his immediate landlords, and, in the case of a commercial building, shall be served on—

- (a) every lessee of the whole or any part of the building whose lease is immediately derived from the estate or interest of the owner; and
- (b) the occupier of the building, or, where different parts of the building are occupied by different persons, each of those persons.

[63]

(4) Where the occupier of factory premises or the owner of a commercial building holds any part of the premises or building on lease, he shall, before commencing any such works, serve upon his immediate landlord, or where he holds different parts of the premises or building under different landlords, on each of his immediate landlords, such a notice as is mentioned in subsection (2) of this section, and each person upon whom such a notice or a copy thereof is served in satisfaction of an obligation imposed by this subsection, shall within seven days from the date of the service of the notice or copy himself serve a copy thereof upon his immediate landlord or landlords, if any :

Provided that, where the occupier of factory premises has, under the said subsection (2) served a copy of a notice on any person, the service of that notice shall be treated as satisfying his obligation under this subsection to serve a notice on that person. [64]

(5) The rights conferred by this section on the occupier of factory premises, the owner of a mine and the owner of a commercial building shall be exercisable by him notwithstanding any limitation on his interest in the premises, mine or building or any agreement or restrictive covenant to the contrary, and notwithstanding, in the case of the owner of a commercial building, that he is not in occupation of the part of the building, or the land affected, and the person who exercises any such right shall not be liable to pay damages for anything done by him which is reasonably necessary for the due exercise of the right.

[65]

The following expressions in this section are defined :—

- “ occupier ” (by section 90 (1)) ;
- “ factory premises ” (by section 89 (2)) ;
- “ owner ” (by section 90 (1)) ;
- “ mine ” (by section 89 (3)) ;
- “ commercial building ” (by section 89 (5)) ;
- “ shelter of the approved standard ” (by section 13 (2)) ;
- “ lessee ” (by section 90 (1)) ;
- “ lease ” (by section 90 (1)) .

See the provisions of section 17, *post*, as to appeals.

The whole of this section needs careful study in the light of the definitions in section 89.

This section does not apply to factories and commercial buildings in docks or harbours to which section 41 (1) has been applied.

16. Power of factory inspector, mines inspector or local authority to require provision of air-raid shelter.—(1) A factory inspector may serve on the occupier of factory premises, a mines inspector may serve on the owner of a mine, and the local authority may serve on the owner of a commercial building (whether or not any

report has been made under the preceding provisions of this Part of this Act) a notice in writing requiring him to provide air-raid shelter of the approved standard for all or any of the persons working or living in the factory premises, working in or about the mine, or working or living in the commercial building, as the case may be. [66]

(2) Any such notice shall specify with such particularity as the inspector or authority thinks or think reasonably necessary the nature and situation of the shelter, and shall specify the number of persons that the shelter is to be constructed to accommodate. [67]

(3) Any such notice shall also state—

- (a) that the shelter is to be provided within such time as may be specified in the notice or such longer time as the Minister may allow ;
- (b) that that time will begin to run twenty-eight days after the service of the notice, or, if an appeal is brought against the notice, from the date of the determination or abandonment of the appeal. [68]

(4) An occupier or owner on whom such a notice has been served shall not exercise any power to execute works conferred by the last preceding section except for the purpose of complying with the said requirements. [69]

(5) If any person fails to comply with the requirements of a notice served on him under this section, he shall be liable on summary conviction to a fine not exceeding one hundred pounds and, if the default in respect of which he was so convicted continues after the conviction, he shall be liable on summary conviction to a fine not exceeding fifty pounds for each day on which the default so continues :

Provided that the court by which a person is convicted of an offence may fix a reasonable period from the date of conviction for compliance by the defendant with the requirements of the notice, and, where a court has fixed such a period, the said daily penalty shall not be recoverable in respect of any day before the expiration thereof.

[70]

(6) Where a notice is served under this section on the occupier of factory premises who is not the owner of the whole of the premises, he shall, within fourteen days from the date of the service of the notice on him, serve a copy thereof on his immediate landlord, or, where he holds different parts of the premises under different landlords, on each of his immediate landlords. [71]

(7) Where a notice is served under this section on the owner of a commercial building who is not the occupier of the whole of the building, he shall, within fourteen days from the date of the service of the notice on him, serve a copy thereof on—

- (a) every lessee of the whole or any part of the building whose lease is immediately derived from the estate or interest of the owner ; and
- (b) the occupier of the building or, where different parts of the

building are occupied by different persons, each of those persons. [72]

(8) Where a notice is served under this section on the occupier of factory premises or the owner of a commercial building and the occupier or owner holds any part of the premises or building on lease, he shall within fourteen days from the date of the service of the notice on him serve a copy thereof upon his immediate landlord or where he holds different parts of the premises or building under different landlords, on each of his immediate landlords, and each person upon whom a copy of such a notice is served in satisfaction of an obligation imposed by this subsection shall within seven days from the date of the service of the copy on him himself serve a copy upon his immediate landlord or landlords, if any :

Provided that, where the occupier of factory premises has under subsection (6) of this section served a copy of a notice on a person, the service of the copy shall be treated as satisfying his obligation under this subsection to serve a copy on that person. [73]

(9) A notice under this section requiring the provision of air-raid shelter shall be deemed to be complied with if, by an agreement under Part II of this Act between the occupier of the premises or the owner of the building, as the case may be, and the local authority for the purposes of that Part, that shelter is provided in a public air-raid shelter. [74]

The following expressions in this section are defined :—

- "factory inspector" (by section 90 (1)) ;
- "occupier" (by section 90 (1)) ;
- "factory premises" (by section 89 (2)) ;
- "mines inspector" (by section 90 (1)) ;
- "owner" (by section 90 (1)) ;
- "mine" (by section 89 (3)) ;
- "local authority" (by section 25) ;
- "commercial building" (by section 89 (5)) ;
- "air-raid shelter" (by section 90 (1)) ;
- "shelter of the approved standard" (by section 13 (2)) ;
- "persons working" (by section 89 (7), (8)) ;
- "lessee" (by section 90 (1)) ;
- "lease" (by section 90 (1)) .

See the provisions of section 17, *post*, as to appeals.

Failure to comply with a notice is a continuing offence (see note to section 14). Note the power to fix a period before the expiry of which no daily penalty is incurred.

As to agreements under Part II, see section 10, *ante*.

This section does not apply to factories and commercial buildings in docks or harbours to which the provisions of section 41 (1) have been applied.

17. Appeals.—(1) Where a notice is served under subsection (2) of section fifteen or subsection (1) of section sixteen of this Act, any person who was served thereunder with the notice or is entitled to any interest which may, under the provisions of this Part of this Act relating to factory premises occupied under short leases, become the subject of a charge in respect of the expenses of the occupier of the premises in providing the shelter to which the notice relates, or is, under the provisions of this Part of this Act relating to increases of rent in the case of certain commercial buildings, liable to an increase of rent in respect of the expenses of the owner of the building in providing the said shelter, may, within the period specified in subsection (4) of this section, appeal to the Minister on the ground that—

- (a) the proposals or requirements of the notice are not appropriate, or are not those most appropriate to the circumstances of the case ; or
 - (b) it is not reasonable to require the provision of any air-raid shelter in the case of the premises, mine or building. [75]
- (2) If the Minister allows an appeal on the ground specified in paragraph (a) of subsection (1) of this section, he shall vary the terms of the notice in such manner as he thinks fit and if he allows it on the ground specified in paragraph (b) thereof, he shall cancel the notice. [76]

(3) Where under either of the last two preceding sections an occupier or owner has served a notice, or is required to serve a copy of a notice served upon him, with respect to air-raid shelter, he shall not begin to execute works for the purpose of providing the shelter to which the notice relates before the expiration of the period specified in subsection (4) of this section, or, if within that period an appeal is brought against the notice, until the determination or abandonment of the appeal. [77]

(4) The period referred to in the preceding provisions of this section shall,—

- (a) where a notice has been served by a factory inspector, mines inspector or local authority, be twenty-one days from the service of the notice by that inspector or authority ;
- (b) in the case of factory premises where no notice has been served by a factory inspector, be fourteen days from the service of the notice by the occupier ;
- (c) in the case of a commercial building where no notice has been served by the local authority, be fourteen days from the service of the notice by the owner. [78]

The following expressions in this section are defined :—

- "factory premises" (by section 89 (2)) ;
- "lease" (by section 90 (1)) ;
- "occupier" (by section 90 (1)) ;
- "commercial buildings" (by section 89 (5)) ;
- "owner" (by section 90 (1)) ;
- "air-raid shelter" (by section 90 (1)) ;
- "mine" (by section 89 (3)).

The Minister is the Minister of Home Security (see note to section 1, *ante*).

As to charge in respect of factory premises, see section 18, *post*. See also sections 15, 16 and 19 and notes thereto.

18. Provisions as to factory premises occupied under short leases.—(1) The provisions of this section shall have effect where the occupier of factory premises who is not the owner of the whole of the premises incurs expenses in executing works in pursuance of a notice served by or on him under the preceding provisions of this Part of this Act, being a notice which or, as the case may be, a copy of which, has been duly served on all the persons on whom the occupier is required to serve it by the said provisions, and not being a notice cancelled on appeal. [79]

(2) On the termination, within the period of ten years immediately following the date of the completion of the works, of any tenancy of the whole or any part of the premises, being a tenancy in existence at that date, the interest expectant on the termination of the tenancy

shall, unless it is otherwise agreed in connection with the works or after the completion thereof, be charged in favour of the outgoing tenant with a sum which bears to the net ascertained cost of the works, the proportion which so much of the said period as is unexpired at the termination of the tenancy bears to the whole of the period.

[80]

(3) In this section, the expression "the net ascertained cost of the works," means such sum as may, within the six months next following the completion of the works, be agreed by all persons entitled to interests which may become subject to such a charge as aforesaid, or as may be decided in proceedings commenced within the said six months, to be the amount of the reasonable expenses incurred in executing the works, as reduced by any grant out of moneys provided by Parliament towards those expenses :

Provided that, in relation to a tenancy not extending to the whole of the premises, the said expression shall be construed as if for the reference to the amount of the said expenses reduced as aforesaid, there were substituted a reference to an amount bearing to that amount (as so reduced) the same proportion that the annual value, at the date of the completion of the works, of the premises comprised in the tenancy bears to the annual value at that date of the whole of the premises.

Where the air-raid shelter which has been provided in pursuance of the notice provides a greater degree of protection or accommodation than is contemplated by the code, no greater expense shall be deemed for the purposes of this subsection to have been reasonably incurred in executing the works for the purpose of providing the shelter than would have been so incurred if that greater degree of protection or accommodation had not been provided. [81]

(4) Any charge created by this section on any interest in factory premises shall have priority over all other incumbrances on that interest, except charges created or arising under any enactment authorising a charge for the recovery of expenses incurred by a local authority and charges created under any enactment authorising advances of public money ; and any charge created under this section may be registered under section ten of the Land Charges Act, 1925, as a land charge of Class A and the person in whose favour the charge is created shall, for the purpose of enforcing it, have the same powers and remedies under the Law of Property Act, 1925, and otherwise, as he would have if he were a mortgagee by deed having powers of sale and lease, and of appointing a receiver. [82]

(5) The provisions of this section shall have effect in relation to any tenancy notwithstanding any term thereof requiring the tenant to pay outgoings or any similar term. [83]

(6) Where the occupier of factory premises has become liable to pay any sums to the local authority (for the purposes of Part II of this Act) under an agreement for the provision by that authority of a public air-raid shelter for the use, in whole or in part, of persons working or living in the premises, subsections (2) to (5) of this section shall

apply as if those sums were expenses incurred in executing works in pursuance of a notice duly served by the occupier under the preceding provisions of this Part of this Act (not being a notice cancelled on appeal), and as if the date of the conclusion of the agreement were the date of the completion of the works. [84]

The following expressions in this section are defined :—

- "occupier" (by section 90 (1));
- "factory premises" (by section 89 (3));
- "owner" (by section 90 (1)).

As to notice under preceding provisions, see sections 15 and 16, *ante*.

The works have to be paid for in the first instance by the occupier. If, however, his tenancy is determined within ten years from the completion of the works, he only has ultimately to bear the proportion which the unexpired portion of his tenancy bears to the whole period of ten years. On the termination of the tenancy the remainder of the cost becomes a charge on the interest expectant on the termination of the tenancy; *e.g.*, if the lease is determined after six years, the interest expectant on the termination is charged with four-tenths of the "net ascertained cost of the works", as defined by subsection (3). Note the provisos to subsection (3) where the tenancy is not of the whole premises, or the works provide a greater degree of protection or accommodation than is contemplated by the code (see section 13, *ante*).

The "net ascertained cost of the works" is to be determined in accordance with the provisions of section 74, *post*, *i.e.*, by an official arbitrator.

For the Land Charges Act, 1925, section 10, see 15 Statutes 531. For the powers of a mortgagee by deed under the Law of Property Act, 1925, see section 101 of that Act (15 Statutes 283).

19. Provisions as to commercial buildings when owner does not occupy the whole building.—(1) Where works are, by virtue of this Part of this Act, executed by the owner of a commercial building in any part thereof of which he is not the occupier, the occupier of that part of the building shall be entitled to recover from the owner compensation for any damage he has sustained by reason of any interference with his use of that part of the building during the execution of the works.

Any such compensation shall be charged on the estate or interest of the owner in the building, and any such charge shall have priority over all other encumbrances on that estate or interest, except charges arising under any enactment authorising a charge for the recovery of expenses incurred by a local authority and charges created under any enactment authorising advances of public money, and may be registered under section ten of the Land Charges Act, 1925, as a land charge of Class A, and the person in whose favour the charge is created shall, for the purpose of enforcing it, have the same powers and remedies under the Law of Property Act, 1925, and otherwise, as he would have if he were a mortgagee by deed having powers of sale and lease and of appointing a receiver. [85]

(2) Where the usefulness of any part of a commercial building is impaired by reason of the execution therein of any works by virtue of this Part of this Act by the owner of the building, then, unless it is otherwise agreed in connection with, or after, the provision of the shelter, the rent payable under every lease derived from the estate or interest of the owner, being a lease in existence at the date of the completion of the works and comprising the part of the building the usefulness of which is so impaired, shall be decreased to the extent and for the period specified in the subsequent provisions of this section.

[86]

(3) The said decrease shall be at an annual rate equal to the

diminution of the annual value of the part of the building ascribable to the impairment, ascertained as at the date of the completion of the works. [87]

(4) Where a notice has been served under the preceding provisions of this Part of this Act by or on the owner of a commercial building who is not the occupier of the whole of the building and the owner has incurred expenses in providing shelter of the approved standard in pursuance of the notice, then, unless the notice has been cancelled on appeal, the rent payable under every lease derived from his estate or interest (being a lease in existence at the date of the completion of the works) shall, unless it is otherwise agreed in connection with, or after, the provision of the shelter, be increased to the extent and for the period specified in the subsequent provisions of this section :

Provided that no increase shall be payable by any person unless the owner has served the notice, or, as the case may be, a copy thereof, on all the persons on whom he is required to serve it by the preceding provisions of this Part of this Act within the time limited by those provisions. [88]

(5) The said increase shall be at the annual rate of the total of the two following amounts, that is to say :—

- (a) one-tenth of the expenses of the owner under the notice ;
- (b) any diminution of the annual value of any part of the building ascribable to an impairment of the usefulness thereof by reason of the execution of the works ascertained as at the date of the completion of the works :

Provided that, in the case of a lease of part of a commercial building, the increase shall be calculated by reference not to the whole of the said total but to an amount bearing thereto the same proportion as the annual value of the part of the building at the date of the completion of the works bears to the annual value of the whole building at that date.

[89]

(6) The said increase shall operate in relation to a lease notwithstanding that the rent payable thereunder is decreased under the provisions of subsection (2) of this section, and any such increase and any such decrease shall be set off against each other accordingly. [90]

(7) The rent on which any such increase or decrease as aforesaid operates is all rent payable under the lease in question in respect of any rent period beginning after the date of the completion of the works :

Provided that no increase or decrease shall operate in respect of more than ten years.

In this subsection the expression "rent period" means the quarter or other period in respect of which an instalment of rent becomes payable under the lease in question. [91]

(8) In this section the expression "expenses" in relation to a notice means the expenses reasonably incurred by the owner in providing shelter of the approved standard in pursuance of the notice together with—

- (a) the amount of any compensation properly paid by the owner under subsection (1) of this section ; and

- (b) where the owner is the occupier of any part of the building in which works were executed for the purpose of providing the shelter, the amount of compensation which he would have been entitled to recover under that subsection from the owner of the building if he himself had not been the owner thereof, and the works had been done by the owner by virtue of the provisions of this Part of this Act.

Where air-raid shelter which has been provided in pursuance of the notice provides a greater degree of protection or accommodation than is contemplated by the code, no greater expense shall be deemed for the purposes of this subsection to have been reasonably incurred in executing the works for the purpose of providing the shelter than would have been so incurred if that greater degree of protection or accommodation had not been provided. [92]

(9) Notwithstanding anything in this section, if any lessee proves that he or his predecessor in title, as the case may be, was not a person on whom the notice or a copy of the notice in question was required to be served by the preceding provisions of this Act and had no reasonable opportunity of appealing to the Minister against the notice and that by reason of his or his said predecessor's inability to appeal he has suffered damage, such reduction shall be made in the amount of the increase of the rent payable under his lease as may be just. [93]

(10) A surety for the payment of any rent which is increased under this section shall not be discharged by reason of the increase but shall not be liable in respect of the increase. [94]

(11) Where an owner claims or could have claimed an increase of rent under this section in respect of any expenses, he shall not be entitled to claim those expenses or any part thereof under any term of a lease requiring the tenant to pay outgoings or any similar term. [95]

(12) Subsections (4), (5), (7), (10) and (11) of this section shall apply in relation to any sums for which the owner of a commercial building becomes liable to a local authority (for the purposes of Part II of this Act) under an agreement for the provision of a public air-raid shelter for the use, in whole or in part, of persons working or living in the building, as if—

- (a) the owner had provided shelter of the approved standard in pursuance of a notice duly served by him under the preceding provisions of this Part of this Act (not being a notice cancelled on appeal) and the said sums were expenses under that notice; and
- (b) the date of the conclusion of the agreement were the date of the completion of the works. [96]

The following expressions in this section are defined:—

- "owner" (by section 90 (1));
- "commercial building" (by section 89 (5));
- "occupier" (by section 90 (1));
- "diminution of the annual value" (by section 90 (1));
- "shelter of the approved standard" (by section 13 (2));
- "lease" (by section 90 (1));
- "annual value" (by section 90 (1)).

For the general provisions as to the determination of claims for compensation see section 74, *post*.

For the Land Charges Act, 1925, section 10, see 15 Statutes 531. For the powers of a mortgagee by deed under the Law of Property Act, 1925, see section 101 of that Act (15 Statutes 283).

Questions of compensation or of increase or decrease of rent under this section are to be determined by an official arbitrator under section 74, *post*.

As to annual value, see the notes to section 6, *ante*, and section 90, *post*. The proviso to the definition of annual value in section 90 (1) is of the utmost importance in relation to this section, for if the owner of the commercial building is not the occupier of the whole (or part) then parts may be "separately valued" (see the notes to section 90, *post*, as to this expression) for rating purposes, and probably will be, and the rateable value or net annual value appearing in the valuation list will be conclusive for the purposes of the provisions of this section relating to increases of rent as to the "annual value" at the "material date", except in relation to a part which has depreciated in value by reason of the execution therein of works for the provision of air-raid shelter. As to the meaning of "material date", see the notes to section 90, *post*.

This section will give rise to very considerable difficulty in practice, partly because it is in itself extremely complicated and partly because it has to be interpreted in the light of the definition of "annual value" in section 90, *post*. That definition, as will appear from the notes to the section, rests on no logical basis. It appears, however, that when works have been executed by the owner of a commercial building in any part of it in which he is not the occupier, and compensation for interference (which is akin to damages) has been paid, the next step is reduction of rent to those tenants holding under lease from the owner who hold a part or parts of the building the usefulness of which has been impaired. The proviso to the definition of "annual value" is not applicable to this problem, since it relates only to the provisions as to increases of rent, and therefore the reduction of actual rent under a lease is the amount by which the rent a hypothetical tenant would pay from year to year—in effect the gross value for rating purposes—is reduced. The valuation list is not conclusive and the official arbitrator will have to apply his mind to the problem, guided, it is suggested, by rating law and practice. It is necessary to note here that the sum fixed in this way as the annual value will not correspond, except accidentally in very exceptional cases, with the actual rent. But the actual rent will be reduced, for a maximum of ten years, by the amount of the reduction of this hypothetical value.

The next step is increase of rents. Let it first be observed in parenthesis that the object of the section appears to be to distribute the cost of the provision of air-raid shelter fairly among the various interests. The amount of the increase, however, varies according to circumstances which appear to have no relevance to the subject.

The expenses of the owner (including compensation properly paid under subsection (1) and any allowance due to him under subsection (8) (b)) are first ascertained, and an annua part equivalent to one-tenth is recoverable. It remains to compensate him for the loss of rents under the provisions already discussed, and the total of the annual sums allowed by way of reduction of rent is added to the sum first ascertained, giving a total annual sum to be apportioned, and this is done by a proportion sum as prescribed by the proviso to subsection (5). This calculation is not based on the actual rents but on annual value as defined in section 90, *post*. If the parts are not "separately valued" for rating purposes (whatever that expression may mean) the value of each part of the building at the date of the completion of the works must be ascertained in terms of gross value, as understood in rating law. If they are "separately valued", then the parts which have not depreciated in value by reason of the execution therein of works for the provision of air-raid shelter are to have their value ascertained by reference to the rateable or net annual value appearing at the material date in the valuation list, which is conclusive as to value at the "material date". As to the parts which have depreciated in value, there is a difficulty of interpretation which appears to be insuperable. These parts are expressly taken out of the class in relation to which the rateable or net annual value appearing in the valuation list is to be conclusive (because, no doubt, the "material date" for the purpose of this calculation is the date of the completion of the works, see section 19 (3) and (5)), but there is no class required to be valued anew on the basis of rateable or net annual value after depreciation and there seems to be no alternative to the view that these parts must be valued in terms of gross value, with the result that a greater share of the increase of rent will be allocated to them than would be the case if the allocation were on equal terms.

This may possibly be explained by the fact that the shelter is more readily accessible to these parts, but there is a further difficulty. It seems probable that, if the works are at all extensive, the parts in which the shelter is situate will be the subject of a net reduction in rent, perhaps considerable. At the end of ten years, as the law stands, this will cease to operate. No doubt before that time there will be further legislation.

If the owner himself occupies a part the usefulness of which is impaired by reason of the execution therein of works he will, by the operation of this section, reduce the cost of his occupation by receiving increased rents from the other occupiers.

20. Contributions in respect of works commenced before the passing of this Act.—(1) Where any person having any estate or interest in factory premises or a commercial building or any part thereof has, before the passing of this Act, commenced works for the purpose of providing air-raid shelter of the approved standard for all or any of the persons working or living in the premises or building, he may make a claim to the tribunal by which claims for compensation and increases and decreases of rent are determined under this Act for

the payment of contributions by all or any of the persons hereinafter mentioned towards the expenses incurred in providing the shelter, and the said tribunal may order the payment of such contributions by such of the said persons as it considers just. [97]

(2) The persons liable to make contributions under the preceding subsection are persons having an estate in fee simple or a leasehold interest in the factory premises or commercial building, or any part thereof, being an estate or interest in existence at the passing of this Act or at the date of the completion of the works, whichever is the later, and not being an estate or interest in reversion expectant on a lease the unexpired term of which is ten years or more. [98]

(3) The said tribunal in determining a claim under this section—

(a) may set aside or vary the terms of any agreement entered into before the passing of this Act to such extent as may be necessary to give effect to its determination ;

(b) may order that the contributions (if any) shall take the form of increases or decreases of rent, or of lump sum or periodical payments, and, if they take the form of payments, may order that they shall be charged on the interests of the persons liable therefor. [99]

(4) In this section, references to the expenses incurred by any person in providing air-raid shelter shall include references to—

(a) any sum which he is liable to pay as compensation for interference with the use of any part of the factory premises or commercial building during the execution of the works, or for the impairment of the value of any such part by reason of the execution of the works ;

(b) if the works are executed in a part of the premises or building occupied by him or impair the value of a part in which he has an estate or interest, such sum as may be just in respect of the interference with the use of that part or, as the case may be, the impairment of its value. [100]

(5) The provisions of this Act relating to the determination of claims for compensation and increases and decreases of rent shall apply in relation to the determination of claims for contributions under this section. [101]

The following expressions in this section are defined :—

- " factory premises " (by section 89 (2)) ;
- " commercial building " (by section 89 (5)) ;
- " air-raid shelter " (by section 90 (1)) ;
- " shelter of the approved standard " (by section 13 (2)) ;
- " persons working " (by section 89 (7), (8)).

The Act was passed on 13th July, 1939. The tribunal referred to in subsection (1) is an official arbitrator, see section 74, *post*. Note that the arbitrator, under this section, not only fixes the amount of the contributions, but also orders them to be paid.

21. Saving for rights of occupier or owner existing apart from this Part.—Nothing in this Part of this Act shall be construed as preventing the occupier of any factory premises, the owner of any mine or the owner of any commercial building from doing anything with a view to providing air-raid shelter which he would have been entitled to do if this Part of this Act had not been enacted, unless the

doing thereof is inconsistent with compliance with the requirements of a notice duly served on him under this Part of this Act. [102]

The following expressions in this section are defined :—

- "occupier" (by section 90 (1));
- "factory premises" (by section 89 (2));
- "owner" (by section 90 (1));
- "mine" (by section 89 (3));
- "commercial building" (by section 89 (5));
- "air-raid shelter" (by section 90 (1)).

22. Exchequer grants in respect of provision of air-raid shelter in factory premises, mines, commercial buildings, &c.

—(1) Subject to the provisions of this section, there shall be paid out of moneys provided by Parliament to every occupier of factory premises and to every owner of a mine or commercial building who provides or secures the provision of air-raid shelter of the approved standard for all or any of the persons working or living in the factory premises, working in or about the mine, or working or living in the commercial building, as the case may be, a grant equal to the appropriate proportion of so much of the expenses of a capital nature incurred by him in providing or securing the provision of the shelter as the Minister considers reasonable. [103]

(2) Subject to the provisions of this section, there shall be paid out of moneys provided by Parliament to every other person who incurs expenses of a capital nature in providing or securing the provision of air-raid shelter of the approved standard for all or any of the persons employed by him (otherwise than in a building in connection with which a grant is payable under subsection (1) of this section or a building wholly or mainly occupied as a school, college, university, hotel, restaurant, club, place of public entertainment or amusement, hospital or nursing home), a grant equal to the appropriate proportion of so much of those expenses as the Minister considers reasonable :

Provided that nothing in this subsection shall apply to any public utility undertakers. [104]

(3) In this section the expression " the appropriate proportion " means an amount in the pound equal to the standard rate of income tax for the year 1939-40. [105]

(4) No grant shall be paid under this section in respect of expenses incurred in providing or securing the provision of air-raid shelter unless either—

- (a) the shelter has been provided before the end of September nineteen hundred and thirty-nine ; or
- (b) work on the shelter is then in progress, or preparatory measures are then being taken for the provision of the shelter and (in each case) the Minister is satisfied that the shelter will be provided within a reasonable time thereafter ;

and no expenses shall be deemed for the purposes of this section to be reasonable in so far as they exceed such standard as may be prescribed by regulations of the Minister made with the consent of the Treasury, unless they were incurred in circumstances so prescribed. [106]

This section applies in relation to shelter provided before, as

well as in relation to shelter provided after, the passing of this Act. [107]

In addition to the definition in subsection (3) of "appropriate proportion" the following expressions are defined:—

- "occupier" (by section 90 (1));
- "factory premises" (by section 89 (2));
- "owner" (by section 90 (1));
- "mine" (by section 89 (3));
- "commercial building" (by section 89 (5));
- "air-raid shelter" (by section 90 (1));
- "shelter of the approved standard" (by section 13 (2));
- "persons working" (by section 89 (7), (8));
- "persons employed" (by section 89 (9));
- "public utility undertakers" (by section 90 (1)).

The Minister is the Minister of Home Security, see note to section 1, *ante*.

"The appropriate proportion" is 7s. in the pound (Finance (No. 2) Act, 1939, section 7 (2)). Provisional regulations have been made under this section, entitled the Civil Defence (Air-Raid Shelter, Standards of Expenditure) Regulations, 1939, dated 16th August, P. & S.R. & O. 1939 No. 906. They were certified to come into immediate operation on account of urgency. Reference should also be made to the Revised Code, S.R. & O. 1939 No. 920, made under section 13, *ante*, which contains a large number of detailed requirements and drawings.

Grants are not payable under this section in relation to factories and commercial buildings in docks or harbours to which section 41 (1) has been applied (see section 41 (1) (c), *post*).

23. Training of employees.—(1) This section applies to every person who employs more than thirty persons in any factory premises, in or about any mine or in any commercial building. [108]

(2) It shall be the duty of every person to whom this section applies, not later than one month from the date on which this section first applies to him, to make a report in writing, in the case of factory premises, to the factory inspector for the district, in the case of a mine, to the mines inspector for the district, and, in the case of a commercial building, to the local authority, stating what measures he has taken or is taking or proposing to take to secure that all the persons employed by him in the premises, in or about the mine or in the building are trained as respects the routine to be followed in the event of an air-raid and that a suitable proportion of those persons are trained and equipped to give first-aid treatment, to deal with the effects of gas and to fight fires. [109]

(3) A factory inspector may, in the case of factory premises, a mines inspector may, in the case of a mine, and the local authority may, in the case of a commercial building, serve on an employer to whom this section applies a notice in writing requiring him to take such measures in relation to the aforesaid matters as may be specified in the notice, and it shall thereupon be the duty of the employer, subject to the next following subsection, to comply with the requirements of the notice. [110]

(4) Any person upon whom a notice is served as aforesaid may, within fourteen days after receipt of the notice, appeal to the Minister, and the Minister may on any such appeal cancel or vary the notice, and the decision of the Minister shall be final. [111]

(5) If any person to whom this section applies fails to make such a report as aforesaid or to comply with the requirements of such a notice as aforesaid, he shall be liable on summary conviction to a fine not exceeding one hundred pounds, and, if the default in respect of which he was so convicted continues after the conviction, he shall be

liable on summary conviction to a fine not exceeding fifty pounds for each day on which the default so continues. [112]

The following expressions in this section are defined :—

- “ factory premises ” (by section 89 (2), as modified by subsection (6)) ;
- “ mine ” (by section 89 (3), as modified by subsection (6)) ;
- “ commercial building ” (by section 89 (5), as modified by subsection (6)) ;
- “ factory inspector ” (by section 90 (1)) ;
- “ mines inspector ” (by section 90 (1)) ;
- “ local authority ” (by section 25).

This section applies to all persons employing more than thirty persons in premises of the types described in subsection (1), whether or not they are in a specified area (see section 12, *ante*).

The date on which section first applies will be the date on which the Act came into force (13th July, 1939) or the date on which the number of employees first exceeded thirty, whichever is the later.

See also the note to section 14, *ante*.

Appeals to the Minister are governed by section 75, *post*. The Minister is the Minister of Home Security (see note to section 1, *ante*).

24. Saving for certain authorities.—The provisions of this Part of this Act requiring owners and occupiers to make reports and authorising inspectors and local authorities to serve notices shall not require the making of reports by, or authorise the service of any notice on, any local authority or any police authority as defined in the Police Pensions Act, 1921. [113]

“ Local authority ” has two meanings in this section. Only a local authority as defined by the first part of section 25, *post*, can serve a notice under the provisions of Part III of this Act. But reports need not be made by nor may notices be served on local authorities, which for this purpose includes, not only local authorities as defined by section 25, but also local authorities within the meaning of section 12 of the Air-Raid Precautions Act, 1937 (see proviso to section 25, *post*).

For the definition of “ police authority ” see section 30 and Schedule III to the Police Pensions Act, 1921 (12 Statutes 888, 894).

25. Local authority for purposes of Part III.—Subject to the special provisions of this Act with respect to the administrative county of London, in this Part of this Act the expression “ local authority ” means the council of a county borough or county district :

Provided that, in the last preceding section, it includes, subject as aforesaid, any local authority within the meaning of the Act of 1937.

[114]

The special provisions as to London are contained in section 84, *post*, and Article 2 of the Civil Defence (London Authorities) Order, 1939, S.R. & O. 1939 No. 899.

The expression “ local authority ” is defined for the purposes of the Air-Raid Precautions Act, 1937, by section 12 thereof (30 Statutes 1031) and includes any authority having power to levy a rate as defined for the purposes of the Rating and Valuation Act, 1925, or for whose expenses a precept may be issued for the levying of such a rate and any combination or joint committee of any such authorities.

The proviso to this section is impossible to construe unless the words “ in the last preceding section ” are altered to “ where used for the second time in the last preceding section ”. There are no provisions in this Part of the Act authorising local authorities within the meaning of the Act of 1937 to serve notices.

PART IV

OTHER PROVISIONS AS TO SHELTER

26. Erection of shelters provided by the Crown.—(1) Where the occupier of any premises has been provided on behalf of His Majesty with materials for an air-raid shelter to be erected on the premises, the local authority shall give him advice as to the position in which the shelter should be erected :

Provided that, where the materials are sold to the occupier, the local authority shall not be under any duty to give such advice until requested by the occupier. [115]

(2) Any occupier to whom advice has been given as aforesaid may erect the shelter in accordance therewith, and may for that purpose break up the surface of any land in his occupation whether paved or not, but shall take due care not to damage any drains, sewers, pipes, cables or other works; and the right conferred by this subsection on any occupier may be exercised notwithstanding any agreement or restrictive covenant to the contrary, and notwithstanding any limitation on his interest in the premises, and he shall not be liable to pay damages in respect of any act which is reasonably necessary for the due exercise of the right conferred on him, or, if he has exercised due care, for any damage done by him to drains, sewers, pipes, cables or other works. [116]

(3) The local authority shall in giving any advice under this section exercise such care as is reasonable in the circumstances of the case, but unless they fail to exercise such care, they shall not be under any liability in respect of any damage caused by or in consequence of the erection of a shelter in accordance with advice given by them. [117]

(4) Where any such materials for an air-raid shelter have been provided on behalf of His Majesty without charge, the local authority may, with the consent of the occupier of the premises, themselves erect the shelter, and the provisions of subsection (2) of this section shall apply in relation to the local authority as they apply in relation to an occupier erecting a shelter in accordance with advice given by the local authority. [118]

(5) For the purposes of this Part of this Act, references to the erection of an air-raid shelter include references to the affixing of the shelter to, or the embedding of the shelter in, any part of the premises and the carrying out of any other works necessary for the proper erection of the shelter. [119]

(6) Public utility undertakers who carry on a gas, water or electricity undertaking shall not, unless they have been guilty of negligence, be liable to pay damages for or in respect of any loss of life or injury or damage to persons or property resulting from damage done by any occupier to any pipe, cable, or other work in the exercise of the powers conferred by subsection (2) of this section:

Provided that nothing in this subsection shall be in derogation of any provision in the Workmen's Compensation Act, 1925. [120]

(7) This section shall be deemed to have had effect as from the commencement of the Act of 1937. [121]

The following expressions in this section are defined :—

- " occupier " (by section 90 (1));
- " an air-raid shelter " (by section 90 (1));
- " local authority " (by section 35 (1));
- " public utility undertakers " (by section 90 (1)).

This section is deemed to have had effect from 22nd December, 1937 (subsection (7)).

The section does not place any obligation on the Government to supply materials to any occupier or class of occupiers. Nor does it compel any occupier to accept the materials or, if they are delivered, to erect the shelter, or to allow it to be erected.

Note the restrictions on the liability of gas, water, or electricity undertakers in subsection (6). For the Workmen's Compensation Act, 1925, see Willis's Workmen's Compensation Acts, 32nd edition, and 11 Statutes 513.

27. Affixing of appliances provided by the Crown for strengthening basements.—(1) Where the occupier of any basement has been provided free of charge on behalf of His Majesty with appliances for strengthening it with a view to its use as an air-raid shelter, then, unless the occupier of the basement refuses his consent, it shall be the duty of the local authority—

- (a) to affix these appliances, and
- (b) to take such steps as appear desirable in order to provide additional exits from the basement or in order to enable additional exits therefrom to be readily provided ;

and for any of the purposes aforesaid they shall have power to execute such works as may be necessary in the basement or elsewhere in the building, including works in any party wall, and for the purpose of providing additional exits or enabling additional exits to be readily provided they shall also have power to execute such works as may be necessary in or under any part of the highway adjacent to the building, and in or under any land occupied or used in connection with the building, or in connection with the building and other buildings ; and they shall not be liable to pay damages in respect of any act which is reasonably necessary for the due exercise of the rights conferred on them by this subsection :

Provided that, if the local authority in executing works in or under any part of the highway cause any damage to any mains, pipes, apparatus or works belonging to public utility undertakers or persons carrying on any hydraulic power undertaking, they shall repay to the undertakers or persons the amount of the expenses reasonably incurred by them in making good the damage. [122]

(2) This section shall be deemed to have had effect as from the commencement of the Act of 1937. [123]

The following expressions in this section are defined :—

- “ occupier ” (by section 90 (1)) ;
- “ an air-raid shelter ” (by section 90 (1)) ;
- “ local authority ” (by section 35 (1)) ;
- “ public utility undertakers ” (by section 90 (1)).

This section is deemed to have had effect from 22nd December, 1937 (subsection (2)).

This section does not place any obligation on the Government to supply appliances to any occupier or class of occupiers. Nor does it compel the occupier to accept, or to allow the affixing of, the appliances. If they are supplied and accepted, the local authority must affix them.

28. Restriction of removal of shelters and appliances.—

(1) Any materials for an air-raid shelter or appliances for strengthening a basement provided free of charge on behalf of His Majesty and with the consent of the recipients shall not be removed from the premises for which they were provided without the consent in writing of the local authority. [124]

(2) Any air-raid shelter erected or appliances affixed by the local authority under the preceding provisions of this Part of this Act shall not be removed from its position without the consent in writing of the local authority. [125]

(3) The consent of the local authority under this section may be given absolutely or subject to conditions. [126]

(4) Any person who removes any shelter, materials or appliances

in contravention of this section, or contravenes any condition subject to which the consent of the local authority was given to the removal thereof, shall be liable on summary conviction to a fine not exceeding twenty pounds :

Provided that no person shall be convicted under this subsection if he proves that he did not know and had no reasonable grounds for suspecting that the materials or appliances were provided on behalf of His Majesty free of charge or, as the case may be, that the shelter was erected or the appliances were affixed by the local authority. [127]

The following expressions in this section are defined :—

“ an air-raid shelter ” (by section 90 (1)) ;

“ local authority ” (by section 35 (1)).

The previous provisions are those of section 26 as to erection of shelters, and section 27 as to affixing of appliances for strengthening basements.

Consents.—Compare carefully the provisions of subsections (1) and (2).

No consent necessary to removal.—Where shelter or appliance delivered without consent of the recipient.

Consent to removal from premises necessary.—The words “ materials ” and “ appliances ” would cover not only shelters not erected and appliances not affixed, but also shelters erected and appliances affixed by occupier.

Consent to removal from position necessary.—Shelters erected and appliances affixed by local authority with the consent of the recipient.

The consent needed is in every case that of the local authority and must be in writing. It may be subject to conditions (subsection (3)).

29. Loans by local authorities to owners of dwelling-houses.—(1) The local authority may advance money to the owner of any premises comprising a dwelling-house in an area specified by the Minister in an order made under Part III of this Act (not being premises the occupier of which has been provided free of charge, on behalf of His Majesty, with materials for an air-raid shelter) for the purpose of enabling the owner to provide in the premises an air-raid shelter of a permanent character. [128]

(2) Every such advance shall be repaid with interest within such period not exceeding ten years from the date of the advance as may be agreed, and the rate of interest shall be such a rate as may be agreed, not being a rate less than one-quarter per cent. in excess of the rate of interest which, one month before the date on which the terms of the advance are settled, was the rate fixed by the Treasury under section one of the Public Works Loans Act, 1897, in respect of loans to local authorities advanced out of the Local Loans Fund for the purposes of Part V of the Housing Act, 1936. [129]

(3) Any amount due to a local authority by way of repayment of an advance made by them under this section may be recovered summarily as a civil debt, and shall be a charge on the premises in respect of which the advance was made, and the local authority shall, for the purpose of enforcing any such charge, have the same powers and remedies under the Law of Property Act, 1925, and otherwise as they would have if they were mortgagees by deed having powers of sale and lease and of appointing a receiver. [130]

(4) The Public Works Loans Commissioners may, if they think fit, make loans in the manner provided by the Public Works Loans Act, 1875, to any local authority for the purpose of enabling the authority to make advances under this section, and the enactments

relating to loans made by the said Commissioners shall apply (so far as applicable) to loans made by virtue of this subsection as they apply to loans made under section nine of the said Act. [131]

(5) In this section the expression "owner" in relation to any premises, means the person in whom the fee simple is vested, and includes also a lessee of the premises under a lease the unexpired term of which exceeds three years. [132]

The following expressions in this section are defined :—

"owner" (by subsection (5) hereof) ;

"an air-raid shelter" (by section 90 (1)).

An order has been made under Part III of this Act, entitled the Civil Defence (Specified Areas) Order, 1939, S.R. & O. 1939 No. 893.

See, as to specified areas, section 12, *ante*.

For section 1 of the Public Works Loans Act, 1897, see 12 Statutes 296. The rates of interest are fixed by Treasury Minute, dated 4th August, 1937, S.R. & O. 1937 No. 713. For Part V of the Housing Act, 1936, see 29 Statutes 619.

For the powers of a mortgagee by deed under the Law of Property Act, 1925, see section 101 thereof (15 Statutes 283).

For the civil debt procedure, see Halsbury's Laws of England, 2nd Edn., Vol. 21, pp. 632, 647, 648.

For the Public Works Loans Act, 1875, and section 9 thereof, see 12 Statutes 255, 258.

30. Provision of air-raid shelter in certain buildings.—

(1) The owner of any building or block of buildings to which this section applies shall, if so required by more than one-half in number of the occupiers of the separate parts of the building or block, and in any other case may, prepare a scheme for providing air-raid shelter in or near the building or block for the persons living and working in the building or block. [133]

(2) In this section the expression "building or block of buildings to which this section applies," means a building or block of buildings which is situated in an area specified in an order made by the Minister under Part III of this Act, is wholly or mainly used for residential purposes and is let out in separate parts :

Provided that—

(a) so much of any building or block of buildings as consists of, or is comprised in, any factory premises or commercial building shall be disregarded ;

(b) the said expression does not include any building or block of buildings owned by any local authority ;

(c) if and so long as arrangements are in existence under which particular classes of persons are provided free of charge on behalf of His Majesty with materials for air-raid shelter, the said expression does not include a building or block of buildings in the case of which the majority of the occupiers of the residential parts fall within those classes,

and any question whether any building or block of buildings is or is not excluded from the operation of this section by virtue of paragraph (c) of this proviso shall be referred to the Minister whose decision shall be final.

[134]

(3) Any such scheme shall—

(a) state the situation and the general nature of the shelter to be provided under the scheme and the number of persons which the shelter is to be constructed to accommodate ;

- (b) state the estimated cost of the provision of the shelter exclusive of compensation ;
- (c) state whether any and if so what compensation is proposed to be paid by the owner to persons having an estate or interest in the premises in which the shelter is to be provided and whether, and if so what, compensation is proposed to be allowed to the owner in respect of his interest in the premises in which the shelter is to be provided ;
- (d) contain a statement of the effect of the subsequent provisions of this section as to increases of rent ;

and may contain such other information as appears to the owner to be relevant in connection with the scheme. [135]

(4) The owner shall serve a copy of any such scheme on the occupier of every separate part of the building or block not occupied by the owner thereof. [136]

(5) Unless the occupiers of more than one-half in number of the separate parts of the building or block dissent from the scheme, then the owner shall carry the scheme into effect and, on completion by the owner of the shelter specified by the scheme in accordance with the provisions thereof, the rent payable under every lease derived from the estate or interest of the owner (being a lease in existence at the date of the completion of the shelter) shall, unless it is otherwise agreed in connection with or after the provision of the shelter, be increased to the extent and for the period specified in the subsequent provisions of this section. [137]

(6) The said increase shall be calculated as follows :—

- (a) there shall first be taken the expenses of the owner in providing the shelter (exclusive of compensation) or the amounts specified in the scheme as the estimate of those expenses, whichever is the less ;
- (b) there shall then be added to the sum ascertained under paragraph (a) of this subsection
 - (i) the amount, if any, proposed by the scheme to be paid by the owner as compensation to persons having an estate or interest in the premises in which the shelter is to be provided or the amount, if any, properly paid by the owner in respect of such compensation, whichever is the less ; and
 - (ii) the amount, if any, proposed by the scheme to be allowed as compensation to the owner in respect of his interest in the premises in which the shelter is to be provided or the amount reasonably allowed to the owner in respect of such compensation, whichever is the less ;
- (c) there shall then be ascertained the proportion which the annual value of the part of the building or block to which the lease in question relates at the date of the completion of the works bears to the annual value of the whole building or block at that date ;
- (d) the proportion so arrived at shall be applied to the sum

ascertained under paragraphs (a) and (b) of this subsection ; and

- (e) the increase in rent shall be at the annual rate of one-eighth of the sum arrived at under paragraph (d). [138]

(7) The rent on which the said increase operates is all rent payable under the lease in question in respect of any rent period beginning after the date of the completion of the shelter :

Provided that no increase shall operate for more than ten years.

[139]

(8) A surety for the payment of any rent which is increased under this section shall not be discharged by reason of the increase, but shall not be liable in respect of the increase. [140]

(9) Nothing in this section shall be construed as authorising the owner of any building or block of buildings to enter upon any premises or land, or to do any work thereon, if he would not have been entitled to enter or to do that work apart from the provisions of this section.

[141]

(10) In this section—

- (a) the expression " owner " in relation to a building or block of buildings to which this section applies has the same meaning as that expression has in relation to a commercial building ; and
- (b) the expression " separate part " means, in relation to a building or block of buildings, a part thereof which is in separate occupation, or, if unoccupied, is intended for separate occupation ; and
- (c) the expression " rent period " means, in relation to a lease, the quarter or other period in respect of which an instalment of rent becomes payable thereunder ;

and where a part of a building or block of buildings is occupied under a lease of which the unexpired term is less than six months, that person shall be deemed for the purposes of this section to be the occupier of that part who would be the occupier thereof if every such lease thereof had been surrendered. [142]

(11) The provisions of the last preceding section shall apply in relation to the owner of a building or block of buildings who is providing an air-raid shelter of a permanent character under a scheme under this section, as it applies in relation to the owner of any such premises as are mentioned in subsection (1) of that section. [143]

The following expressions in this section are defined :—

- " owner " (by subsection (10) hereof, applying section 90 (10)) ;
- " building or block of buildings to which this section applies " (by subsection (2) hereof) ;
- " occupier " (by section 90 (1), as qualified by subsection (10) hereof) ;
- " separate part " (by subsection (10) hereof) ;
- " air-raid shelter " (by section 90 (1)) ;
- " rent period " (by subsection (10) hereof) ;
- " annual value " (by section 90 (1)).

See, as to specified areas, section 12, *ante*. An order has been made under Part III of the Act, entitled the Civil Defence (Specified Areas) Order, 1939, S.R. & O. 1939 No. 893.

The Minister is the Minister of Home Security, see note to section 1, *ante*.

There is no obligation on the owner to prepare a scheme unless the majority of the occupiers of the building or block require him to do so (subsection (1)). When a scheme has been prepared,

containing the information mentioned in subsection (3), it must be served on the occupiers (subsection (4)). The scheme cannot be proceeded with if a majority dissent. Thus the occupiers can (a) demand a scheme; (b) object to the scheme when made.

Note that, in the absence of special agreement, the rent of occupiers who dissented from the scheme, but were in a minority, can be raised. Any tenant's increase of rent is one-eighth of his proportionate part of the ascertained cost (compare section 19 (5) (a), where it is one-tenth), and the increase is not to operate for more than ten years.

Claims for compensation and increase of rent are determined according to section 74, *post*. As to annual value, see notes to sections 19, *ante* and 90, *post*.

31. Special provisions as to land used in common by tenants of certain buildings.—(1) If, in the case of any building or block of buildings to which this section applies, there is adjacent thereto any land used in common by the occupiers of the building or block, a request in writing, signed by more than one-half in number of the occupiers of the separate parts of the building or block, that the local authority should utilise that land for the construction or erection of an air-raid shelter shall confer upon the local authority the like rights as respects entry upon the land and the execution of works thereon as they would possess if the request had been and continued to be concurred in by all persons in any way interested in the land.

[144]

(2) In this section the expression "building or block of buildings to which this section applies" means a building or block of buildings which is situated in an area specified in an order made by the Minister under Part III of this Act, is wholly or mainly used for residential purposes and is let out in separate parts:

Provided that—

- (a) so much of any building or block of buildings as consists of, or is comprised in, any factory premises or commercial building shall be disregarded;
- (b) the said expression does not include any building or block of buildings the owner of which may be required to provide air-raid shelter in accordance with a scheme prepared under the last preceding section. [145]

Note the definition of "building or block of buildings to which this section applies" by subsection (2). The following expressions in this section are also defined:—

"occupiers" (by section 90 (1));

"local authority" (by section 35 (1));

"an air-raid shelter" (by section 90 (1)).

See, as to specified areas, section 12, *ante*. An order has been made under Part III of the Act, entitled the Civil Defence (Specified Areas) Order, 1939, S.R. & O. 1939 No. 893.

32. Execution of works by owner of dwelling-house.—

(1) The owner of any dwelling-house may execute any works for the purpose of providing air-raid shelter in the dwelling-house or in or on any land belonging to or occupied with the dwelling-house, notwithstanding any limitation on his interest in the dwelling-house or the said land or any agreement or restrictive covenant to the contrary.

[146]

(2) In this section the expression "owner," in relation to any dwelling-house, means the person in whom the fee simple is vested, and includes also a lessee of the dwelling-house under a lease the unexpired term of which exceeds three years. [147]

(3) This section shall be deemed to have come into operation on the commencement of the Act of 1937. [148]

The following expressions in this section are defined :—

“ owner ” (by subsection (2) hereof) ;

“ air-raid shelter ” (by section 90 (1)).

The “ owner ” is not under any obligation to carry out works, but if he wishes to do so cannot be restrained by any limitation on his interest, or agreement, or restrictive covenant.

This section is deemed to have come into effect on 22nd December, 1937.

33. Power to make regulations as to construction, alteration or extension of buildings.—(1) The Minister may, after consultation with such persons having professional or other special qualifications as he thinks fit, make regulations, imposing, in relation to buildings of such classes as may be specified in the regulations—

- (a) such requirements as to materials and construction as he considers necessary for the purpose of rendering the buildings less vulnerable to air-raids ;
- (b) such requirements as he considers necessary as to the provision of air-raid shelter for the persons using or resorting to the buildings. [149]

(2) Regulations made under this section shall apply to buildings erected after the coming into operation of the regulations and, to such extent as may be specified therein, to buildings in which structural alterations are made, or which are extended, after that date :

Provided that no regulations shall apply to any building on the ground that it is erected, altered or extended after the said date, if plans for the erection, alteration or extension in question were passed by the local authority under the Public Health Act, 1936, or any corresponding enactment in any local Act, before that date. [150]

(3) Regulations made under this section may apply generally or in such areas as may be specified in the regulations, and different requirements may be prescribed for different areas and different classes of buildings. [151]

(4) It shall be the duty of the local authority to enforce regulations made under this section, and for that purpose—

- (a) sections sixty-four to sixty-seven of the Public Health Act, 1936, shall apply to such regulations so far as they relate to areas where building byelaws are in force, as if the regulations were building byelaws and as if the references in the said section sixty-seven to the Minister of Health were references to the Minister ;
- (b) the regulations may, so far as they relate to areas in which a local Act dealing with the construction of buildings is in force, incorporate any of the provisions of any such Act with such modifications as may be necessary ;
- (c) the regulations may include provisions as to the giving of notices and the deposit of plans, sections, specifications and written particulars, and the inspection of work, and the taking of samples of materials to be used in the construction of buildings or in the execution of other works ;
- (d) the regulations may provide for imposing on persons offending

against the regulations fines, recoverable on summary conviction, not exceeding twenty pounds and in the case of a continuing offence further fines not exceeding five pounds for each day during which the offence continues after conviction therefor. [152]

(5) Where the local authority consider that the operation of any regulation under this section in force in their area would be unreasonable in relation to any particular case, they may, with the consent of the Minister, relax the requirements of the regulation or dispense with compliance therewith. [153]

(6) Any building byelaws, or any provisions of any such local Act as aforesaid, which are inconsistent with any regulations made under this section shall, while the regulations are in force, be void to the extent of the inconsistency. [154]

(7) In this section the expression "building byelaws" has the meaning assigned to it by section three hundred and forty-three of the Public Health Act, 1936, and subsection (2) of section ninety of that Act (which relates to the question what constitutes the erection of a building) shall apply for the purposes of this section as it applies for the purposes of Part II of that Act. [155]

(8) This section shall have effect in relation to any electricity generating station as if the references therein to the Minister were references to the Electricity Commissioners, acting with the concurrence of the Minister. [156]

The following expressions in this section are defined :—

"air-raid shelter" (by section 90 (1));

"building byelaws" (by subsection (7) hereof).

The Minister is the Minister of Home Security. See note to section 1, *ante*.

No regulations have up to the time of going to press been issued under this section.

See as to approval of plans under the Public Health Act, 1936, section 64 (29 Statutes 375).

Building byelaws are dealt with in sections 61 to 71 of P.H.A., 1936 (29 Statutes 372) and sections 64 to 67, applied by subsection (4) (a) hereof, relate to the enforcement thereof. By the definition contained in section 343 of the Act of 1936, which is incorporated by subsection (7) hereof :—

"'building byelaws' means byelaws made under Part II of this Act with respect to buildings, works and fittings, and includes also byelaws made with respect to those matters under any corresponding enactment repealed by this Act, or under any such enactment as amended or extended by a local Act";

Section 90 (2) of the same Act, also applied by subsection (7) hereof, provides :—

"(2) For the purposes of this Part of this Act, and, so far as byelaws made thereunder may provide, for the purposes of those byelaws, any of the following operations shall be deemed to be the erection of a building, that is to say—

(i) the re-erection of any building or part of a building, when an outer wall of that building or, as the case may be, that part of a building has been pulled down, or burnt down, to within ten feet of the surface of the ground adjoining the lowest storey of the building or of that part of the building;

(ii) the re-erection of any frame building or part of a frame building when that building or part of a building has been so far pulled down, or burnt down, as to leave only the framework of the lowest storey of the building or of that part of the building;

(iii) the roofing over of any open space between walls or buildings; and the word 'erect' shall be construed accordingly."

Subsection (5) is in terms identical with those of P.H.A., 1936, section 63, omitting the proviso.

For the Electricity (Supply) Act, 1919, see 7 Statutes 754.

See the provisos to article 3 of the Civil Defence (London Authorities) Order, 1939, S.R. & O. 1939 No. 899.

34. Increase of housing subsidy as respects certain flats.—

(1) In the case of flats to which this section applies, the annual contribution payable under section one of the Housing (Financial Pro-

visions) Act, 1938, by the Minister of Health shall be increased by two pounds in respect of each flat, and the annual contribution payable by the local authority under section six of that Act shall be increased accordingly. [157]

(2) This section applies to flats provided in blocks of flats within the meaning of the Housing (Financial Provisions) Act, 1938, in which air-raid shelter—

(a) is provided in order to comply with regulations made under the last preceding section ; or

(b) is provided (whether before or after the commencement of this Act) with the approval of the Minister of Health. [158]

"Air-raid shelter" is defined by section 90 (1).

For the Housing (Financial Provisions) Act, 1938, section 1, see 31 Statutes 570. For section 6, see *ibid.*, 574. A block of flats is defined by section 11 (1) (b) of that Act as follows :—

"(b) subject as hereinafter provided, the expression 'block of flats' means a building which contains two or more flats, and which consists of three or more storeys exclusive of any storey constructed for use for purposes other than those of a dwelling ;

and (without prejudice to the operation of subsection (3) of section one hundred and eighty-eight of the principal Act) any reference in this Act to a house shall be construed as including a reference to a flat :

Provided that, for the purposes of this Act, a building shall, notwithstanding that it does not in all parts exceed two storeys in height, be deemed to be a building of three storeys if the Minister is satisfied that the total accommodation provided in that building is not less than the accommodation which could have been provided in a building on the same superficial area if the building had in all parts been of three storeys."

The flats affected are those provided by local authorities under the Housing Acts.

35. Provisions as to local authorities for purposes of Part IV.—(1) Subject to the special provisions of this Act with respect to the administrative county of London, in this Part of this Act the expression "local authority" means the council of a county borough or county district. [159]

(2) The council of any county may reimburse to the council of any county district within that county the whole or any part of any expenses incurred by them under the first three sections of this Part of this Act.

[160]

For the special provisions see section 84, *post*, and article 3 of the Civil Defence (London Authorities) Order, 1939, S.R. & O. 1939 No. 899.

PART V

PUBLIC UTILITY UNDERTAKINGS

36. Duty of public utility undertakers to make reports.—

(1) It shall be the duty of all public utility undertakers, not later than one month from the passing of this Act, to make a report in writing to the appropriate department stating what measures they have taken or are taking or proposing to take to secure that all persons employed by them are trained as respects the routine to be followed in the event of an air-raid and that a suitable proportion of those persons are trained and equipped to give first aid treatment, to deal with the effects of gas, and to fight fires. [161]

(2) Subject to the special provisions of this Part of this Act as to railway undertakings, the appropriate department may serve a notice in writing on any public utility undertakers requiring them to make,

in addition to the report required by the preceding subsection, either or both of the following reports in writing, that is to say,—

- (a) a report stating what measures they have taken or are taking or proposing to take to provide air-raid shelter for the persons employed by them ; and
- (b) a report stating what measures they have taken or are taking or proposing to take to secure the due functioning of their undertaking in the event of hostile attack,

and on receipt of such notice it shall be the duty of the undertakers forthwith to comply with its requirements :

Provided that it shall be the duty of any undertakers who employ persons within an area specified by the Minister in an order made under Part III of this Act to make a report in writing not later than three months from the making of that order stating what measures they have taken or are taking or proposing to take to provide shelter for those persons notwithstanding that no notice has been served upon them under this subsection. [162]

(3) If any undertakers fail to make a report which they are required to make under this section, they shall be liable on summary conviction to a fine not exceeding one hundred pounds, and, if the failure in respect of which they were so convicted continues after the conviction, they shall be liable on summary conviction to a fine not exceeding ten pounds for each day on which the failure so continues.

[163]

The following expressions in this section are defined :—

- "public utility undertakers" (by section 90 (1)) ;
- "appropriate department" (by section 90 (1)) ;
- "persons employed" (by section 89 (9)) ;
- "air-raid shelter" (by section 90 (1)).

The section applies to railway undertakings except so much as relates to measures to secure the due functioning of the undertaking in the event of hostile attack, as to which, see section 40, *post*.

The section applies to dock and harbour undertakings, but may, in the manner provided by section 41, *post*, be extended :—

- (a) as regards provision of shelters to all persons likely to be in the docks or harbours, in which case Part III of the Act does not apply to premises in the dock or harbour (section 41 (1)) ;
- (b) as regards securing the due functioning of the undertaking, to measures with a view to providing services not required but for hostile attack or the danger thereof (section 41 (2)).

As to electricity undertakers, note the power given by section 42, *post*.

Undertakers receiving a notice under subsection (2) (a) must, within the period named in the notice, report on the provision of shelter. Undertakers not receiving such a notice must, nevertheless, if they employ persons in a specified area, report within three months after the area is specified. The report must be made by November 14th, 1939, in the case of undertakers in the areas specified by the Civil Defence (Specified Areas) Order, 1939, S.R. & O. 1939 No. 893. See further as to specified areas, section 12, *ante*.

37. Power to require measures to be taken.—(1) The appropriate department may serve on any public utility undertakers a notice requiring them, within the time specified in the notice, to take such measures as may be specified in the notice, being measures with respect to any of the matters specified in the last preceding section with respect to which those undertakers have made, or are under an obligation to make, a report in pursuance of that section or could be required to make a report thereunder. [164]

(2) If any undertakers fail to comply with the requirements of a

notice served on them under this section, they shall be liable on summary conviction to a fine not exceeding one hundred pounds and, if the failure in respect of which they were so convicted continues after the conviction, they shall be liable on summary conviction to a fine not exceeding fifty pounds for each day on which the failure so continues :

Provided that the court by which any undertakers are convicted of an offence may fix a reasonable period from the date of conviction for compliance by the undertakers with the requirements of the notice, and, where a court has fixed such a period, the said daily penalty shall not be recoverable in respect of any day before the expiration thereof.

[165]

The following expressions in this section are defined by section 90 (1) :—

“ appropriate department ” ;

“ public utility undertakers ” ;

As to railway, dock and harbour, and electricity undertakings, see notes to previous section.

38. General grant in respect of expenses in providing shelter for employees.—(1) Where any public utility undertakers who, under the preceding provisions of this Part of this Act, have made, or are, under an obligation to make, a report as to the measures which they have taken or are taking or proposing to take to provide air-raid shelter for persons employed by them or have been served with a notice requiring them to take such measures, have incurred, whether before or after the passing of this Act, expenses of a capital nature in taking measures for that purpose (being measures for the provision of shelter of the approved standard), there shall be paid out of moneys provided by Parliament towards those expenses grants equal to the appropriate proportion of so much of those expenses as the appropriate department considers reasonable :

Provided that—

- (a) no grant shall be payable under this section towards the expense of providing any shelter unless either the shelter has been provided before the end of September nineteen hundred and thirty-nine or work on the shelter is then in progress or preparatory measures are then being taken for the provision of the shelter and (in each case) the appropriate department is satisfied that the shelter will be provided within reasonable time thereafter ;
- (b) no expenses shall be deemed to be reasonable in so far as they exceed such standard as may be prescribed by regulations of the Minister made with the consent of the Treasury unless they were incurred in circumstances so prescribed.

[166]

(2) In this section the expression “ the appropriate proportion ” means an amount in the pound equal to the standard rate of income tax for the year 1939–40. [167]

Definitions.—The following expressions in this section are defined :—

“ public utility undertakers ” (by section 90 (1)) ;

“ air-raid shelter ” (by section 90 (1)) ;

“ persons employed ” (by section 89 (9)) ;

“ shelter of the approved standard ” (by section 13 (2)) ;

“ appropriate proportion ” (by subsection (2) hereof) ;

“ appropriate department ” (by section 90 (1)).

"The approved standard" is the standard laid down by the Civil Defence (Approval and Revision of Code) Order, 1939, S.R. & O. 1939 No. 920.

The appropriate proportion is 7s. in the pound (Finance (No. 2) Act, 1939, section 7 (2)).

Note that, although the provisions of sections 36 and 37 may not have been operated, the grant is only available in respect of works completed, in progress or in preparation on 30th September, 1939.

See the provisional Civil Defence (Air-Raid Shelters, Standards of Expenditure) Regulations, 1939, dated 16th August, P. & S.R. & O. 1939 No. 906. These were certified to come into immediate operation on account of urgency.

39. Grants in respect of measures to secure due functioning of undertakings.—(1) There may be paid out of moneys provided by Parliament towards approved expenses of public utility undertakers in taking measures, whether before or after the passing of this Act, to secure the due functioning of their undertaking in the event of hostile attack, grants not exceeding one-half of those expenses. [168]

(2) In this section the expression "approved expenses" means such expenses of a capital nature, incurred on such measures, as the appropriate department, acting in accordance with general directions of the Treasury, may approve for the purposes of this section. [169]

(3) This section shall not apply in relation to any railway undertaking or electricity undertaking, and, in relation to any dock or harbour undertaking, shall have effect subject to the special provisions of this Part of this Act as to those undertakings. [170]

The following expressions in this section are defined:—

- "approved expenses" (by subsection (2) hereof);
- "public utility undertakers" (by section 90 (1));
- "appropriate department" (by section 90 (1)).

40. Provisions as to railway undertakings.—(1) So much of the preceding provisions of this Part of this Act as relates to measures of public utility undertakers to secure the due functioning of their undertaking in the event of hostile attack shall not apply in relation to any railway undertaking, but the following provisions of this section shall have effect in relation to any railway undertaking specified in that behalf in an order of the appropriate department. [171]

(2) The undertakers carrying on any such undertaking may be required by notice in writing from the appropriate department to make a report stating what measures they have taken or are taking or proposing to take as respects—

- (a) the execution of works or the provision of accommodation, plant, materials or equipment (including stocks of stores) with a view to providing or maintaining essential railway services in the event of hostile attack;
- (b) the provision for persons employed by them on duties in connection with essential railway services of such special protection or equipment as may be necessary to enable those essential services to be maintained during air-raids,

and the appropriate department may serve on any such undertakers a notice requiring them, within the time specified in the notice to take such measures as may be specified therein as respects any such matters, and the preceding provisions of this Part of this Act with respect to failures to make reports and to comply with notices shall apply in relation to the reports and notices mentioned in this subsection as they

apply in relation to the reports and notices mentioned in those provisions. [172]

(3) There may be paid out of moneys provided by Parliament to any such undertakers grants not exceeding such expenses, incurred on such measures (being measures with respect to the matters mentioned in subsection (2) of this section), as the appropriate department, acting in accordance with general directions of the Treasury, may approve for the purposes of this subsection. [173]

(4) If, in the event of war, control of any such undertaking in whole or in part is assumed by His Majesty's Government in the United Kingdom on terms as to compensation under which a net revenue ascertained in accordance with those terms accrues to the undertakers in respect of any control accounting period (as hereinafter defined) which exceeds such amount as may be agreed or determined to represent the corresponding net revenue of the undertakers in respect of a like accounting period before the outbreak of war, the undertakers shall pay to the appropriate department an amount equal to the excess, so however that the total of the amounts so paid by the undertakers shall not exceed—

- (a) one-half of the total grants made to them under the last preceding subsection; or
- (b) the amount by which the sum of the net revenues, ascertained as aforesaid, accruing to the undertakers throughout the control accounting periods, exceeds the sum of the corresponding net revenues of the undertakers in respect of the like accounting periods before the outbreak of war.

In this subsection the expression "control accounting period" in relation to an undertaking means in respect of any financial year of that undertaking throughout which such control as aforesaid exists, that financial year, and in respect of any financial year of the undertaking during a part only of which such control as aforesaid exists, that part of that financial year.

Any sum received by the appropriate department under this subsection shall be paid into the Exchequer. [174]

The following expressions in this section are defined:—

"public utility undertakers" (by section 90 (1));

"appropriate department" (by section 90 (1));

"control accounting period" (by subsection (4) hereof, for the purposes of this subsection).

See also section 90 (2), *post*, as to premises occupied or persons employed by railway undertakers. The Railways (Special Air-Raid Precautions) Order, 1939, S.R. & O. 1939 No. 1669, has been made under this section.

Control has been assumed by the Government by the Railway Control Order, 1939, S.R. & O. 1939, No. 1197, made by the Minister of Transport under Regulation 69 of the Defence Regulations, 1939. Its effect is that the property of the railway companies specified, apart from their money and securities, are placed at the disposal of the Minister or directed by him, and that the railway undertakings are to be carried on in accordance with his directions (Regulation 69).

41. Provisions as to dock and harbour undertakings.—

(1) If, on the application of any public utility undertakers who carry on a dock or harbour undertaking the appropriate department so order, the preceding provisions of this Part of this Act relating to the provision of air-raid shelter for persons employed by public utility undertakers, shall apply in relation to the undertakers carrying on the undertaking as if all persons likely to be found during air-raids in the

dock or harbour, or any such part thereof as may be specified in the order, were persons employed by the undertakers; and where any such order is made—

(a) the order may contain such incidental and consequential provisions as the appropriate department thinks proper, including provisions authorising the undertakers, notwithstanding anything in any contract or in any enactment or order relating to them, to do such of the following things as may be specified in the order, that is to say—

(i) to make such increases in their charges as may be specified in the order;

(ii) to recover from such persons or classes of persons using the dock or harbour as may be specified in the order such sums as may be determined by or under the order;

(iii) to borrow such money on such terms as to security and otherwise as may be specified in the order;

(b) the provisions of Part III of this Act relating to the provision of air-raid shelter shall not apply in relation to any factories or commercial buildings situate in the dock or harbour or, as the case may be, in the part thereof specified in the order; and

(c) no grant shall be payable under Part III of this Act in respect of any expenses incurred in providing or securing the provision of air-raid shelter in the dock or harbour, or, as the case may be, in the part thereof specified in the order. [175]

(2) Without prejudice to the generality of the provisions of this Part of this Act relating to measures for securing the due functioning of an undertaking in the event of hostile attack, the measures which may be specified in a notice served by the appropriate department under this Part of this Act may, in the case of undertakers carrying on a dock or harbour undertaking, include measures designed to secure that the undertaking is capable of providing services which would not, apart from hostile attack or the danger thereof, be required to be provided by that undertaking; and, in relation to any such measures the provisions of this Part of this Act relating to grants shall have effect as if for the reference to one-half of the approved expenses there were substituted a reference to seventeen-twentieths thereof. [176]

(3) There may be paid out of moneys provided by Parliament towards approved expenses incurred, whether before or after the commencement of this Act, by public utility undertakers who carry on a dock or harbour undertaking in taking measures designed to provide facilities, in the event of hostile attack, for the collection of casualties occurring in the dock or harbour or on land adjacent thereto and the treatment thereof in first-aid posts, grants not exceeding one-half of those expenses.

In this subsection the expression “approved expenses” means such expenses of a capital nature, incurred on such measures, as the Minister, acting in accordance with general directions of the Treasury, may approve for the purposes of this subsection. [177]

(4) In this section the expressions “dock” and “harbour”

mean, in relation to public utility undertakers carrying on a dock or harbour undertaking, the area over which they exercise any control under any enactment or order relating to the undertaking. [178]

The following expressions in this section are defined :—

- “ public utility undertakers ” (by section 90 (1)) ;
- “ dock ” (by subsection (4) hereof) ;
- “ harbour ” (by subsection (4) hereof) ;
- “ appropriate department ” (by section 90 (1)) ;
- “ air-raid shelter ” (by section 90 (1)) ;
- “ approved expenses ” (by subsection (3) hereof for the purposes of that subsection).

The appropriate authority (*i.e.*, the Minister of Transport) may, on the application of the undertakers, order that the undertakers shall be responsible for providing shelters for all the persons likely to be found in the dock or harbour, in place of the persons liable under Part III of the Act (in particular sections 15 and 16, *ante*). If no such application or order is made, then sections 36 and 37, *ante*, apply to the undertakers.

The appropriate authority (*i.e.*, the Minister of Transport) may demand by notice under section 37 measures which would not, apart from hostile attack or the danger thereof, be required (subsection (2)).

No grant is payable under Part III of the Act, where subsection (1) hereof is applied. The grant in such case is under section 38 (1). The grant for securing the due functioning of an undertaking is under section 39. In respect of the additional requirements mentioned in the previous note this grant is increased to seventeen-twentieths under subsection (2). A grant in respect of first-aid posts, etc., may be made not exceeding one-half of the expenses (subsection (3)).

Where provision is made jointly by dock and harbour undertakers and by the local authority, the part of the cost borne by the local authority will rank for a grant under the Air-Raid Precautions Act, 1937. Expenditure of local authorities is controlled by section 7 of that Act. See, as to the view of the Minister of Health, Circular 1850, dated 29th August, 1939, entitled “ Civil Defence Act, 1939 ”, paragraphs 31, 32.

The following Orders have been made under section 41 (1) in relation to dock and harbour undertakings in England :—

- S.R. & O. 1939 No. 1082, dated 25th August, Mersey Dock Estate, Liverpool.
- S.R. & O. 1939 No. 1339, dated 16th September, Newcastle Docks.
- S.R. & O. 1939 No. 1565, dated 23rd October, Barrow Docks (L.M.S. Rly.).
- S.R. & O. 1939 No. 1566, dated 23rd October, Fleetwood Harbour (L.M.S. Rly.).
- S.R. & O. 1939 No. 1567, dated 23rd October, Garston (L.M.S. Rly.).
- S.R. & O. 1939 No. 1568, dated 23rd October, Grangemouth (L.M.S. Rly.).
- S.R. & O. 1939 No. 1569, dated 23rd October, Poplar Docks (L.M.S. Rly.).
- S.R. & O. 1939 No. 1572, dated 24th October, Grimsby Docks (L. & N.E. Rly.).
- S.R. & O. 1939 No. 1573, dated 24th October, Hartlepool Docks (L. & N.E. Rly.).
- S.R. & O. 1939 No. 1574, dated 24th October, Hull Docks (L. & N.E. Rly.).
- S.R. & O. 1939 No. 1575, dated 24th October, Immingham Dock (L. & N.E. Rly.).
- S.R. & O. 1939 No. 1576, dated 24th October, Lowestoft Harbour (L. & N.E. Rly.).
- S.R. & O. 1939 No. 1577, dated 24th October, Middlesbrough Docks (L. & N.E. Rly.).
- S.R. & O. 1939 No. 1602, dated 27th October, Regent's Canal Dock.
- S.R. & O. 1939 No. 1603, dated 26th October, Southampton Docks (S. Rly.).

42. Provisions as to electricity undertakings.—(1) The Central Electricity Board shall have, and be deemed always to have had, power, with the approval of the Electricity Commissioners—

- (a) to acquire, store, insure and maintain stocks of any such plant and equipment (including wires and cables) as is used for the purpose of transmitting, transforming or distributing electricity, with a view to those stocks being made available for temporary use by the Board or any other electricity undertakers in the event of damage consequent upon hostile attack ;
- (b) to make arrangements for the distribution of any such plant and equipment in that event ; and
- (c) to acquire any land, acquire, insure, and maintain any other property, and do any thing, necessary or expedient for any of the purposes aforesaid. [179]

(2) The Central Electricity Board shall defray any approved expenses incurred, whether before or after the passing of this Act, by any other electricity undertakers in taking measures for securing the due functioning of their undertaking in the event of hostile attack, and

there may be paid out of moneys provided by Parliament to the Central Electricity Board towards—

- (a) the expenses incurred by the Board under the preceding provisions of this subsection; and
- (b) the approved expenses of the Board incurred, whether before or after the passing of this Act, on the measures mentioned in subsection (1) of this section; and
- (c) the approved expenses of the Board incurred, whether before or after the passing of this Act, on measures to secure the due functioning of their own undertaking in the event of hostile attack grants not exceeding one-half of those expenses.

In this subsection the expression "approved expenses" means such expenses of a capital nature, incurred on such measures, as the Electricity Commissioners, acting in accordance with general directions of the Treasury, may approve for the purpose of this subsection.

[180]

(8) The provisions of Part I of the First Schedule to this Act shall have effect with respect to the financing of certain expenditure of the Central Electricity Board under this Part of this Act and that Schedule and the distribution of the burden of that expenditure among the various electricity undertakers (including the Central Electricity Board), the provisions of Part II of that Schedule shall have effect with respect to the disposal of the property acquired by the Central Electricity Board under subsection (1) of this section and the provisions of Part III thereof shall have effect with respect to certain related matters.

In the said Schedule, the expression "the principal section" means this section. [181]

The following expressions in this section are defined:—

"approved expenses" (by subsection (2) hereof for the purposes of that subsection);

"electricity undertakers" (by section 90 (1)).

As to the Central Electricity Board, see the Electricity (Supply) Act, 1926, section 1 (7 Statutes 792), and as to the Electricity Commissioners, see the Electricity (Supply) Act, 1919, section 1 (7 Statutes 754).

PART VI

OBSCURATION OF LIGHTS AND CAMOUFLAGE

43. General duty as to factories, mines and public utility undertakings.—(1) It shall be the duty of the occupier of any factory premises, of the owner of any mine and of the persons carrying on any public utility undertaking to take forthwith any necessary measures to secure that in the event of war, throughout any period of darkness—

- (a) no light is allowed to appear from within any building on the premises, or used for the purposes of the mine or undertaking; and
- (b) no lights not within a building remain alight, unless they are essential for the conduct of work of national importance, are adequately shaded, are reduced in power and, save where the Minister otherwise directs, are capable of instant extinction at any time:

Provided that this subsection shall not apply to any light exhibited solely in the interests of navigation. [182]

(2) A factory inspector may serve on the occupier of any factory premises, a mines inspector may serve on the owner of any mine and the appropriate department may serve on the persons carrying on any public utility undertaking, a notice in writing requiring the occupier, owner or persons, within the time specified in the notice, to take such measures as may be specified in the notice, being such measures as are mentioned in subsection (1) of this section. [183]

(3) This section does not apply to any of the matters dealt with in the next succeeding section. [184]

The following expressions in this section are defined :—

- " occupier " (by section 90 (1)) ;
- " factory premises " (by section 89 (2)) ;
- " owner " (by section 90 (1)) ;
- " mine " (by section 89 (3)) ;
- " public utility undertaking " (by section 90 (1))
- " factory inspector " (by section 90 (1)) ;
- " mines inspector " (by section 90 (1)) ;
- " appropriate department " (by section 90 (1)).

44. Provisions as to processes involving flames or glare.—

(1) Where any process carried on in factory premises, in any mine or in the premises of any public utility undertakers, involves the emission of flames or glare not capable of being screened by means which would suffice in the case of ordinary lighting of a building, the Minister, in the case of factory premises or a mine, or the appropriate department, in the case of the premises of public utility undertakers, may serve on the occupier of the factory premises, the owner of the mine or the public utility undertakers, as the case may be, a notice in writing requiring him or them, within the time specified in the notice, to take or complete such measures as may be specified in the notice to secure that in the event of war the flames or glare will either no longer be produced during any period of darkness, or will be wholly or partially screened. [185]

(2) The Minister may serve on the owner of any mine in connection with which there is any accumulation or deposit of refuse which is burning or is liable to spontaneous combustion, a notice in writing requiring him, within the time specified in the notice, to take or complete such measures as may be specified in the notice to secure that in the event of war no flames or glare will be produced during any period of darkness by that accumulation or deposit or that any flames or glare so produced will be wholly or partially screened. [186]

The following expressions in this section are defined :—

- " factory premises " (by section 89 (2)) ;
- " mine " (by section 89 (3)) ;
- " public utility undertakers " (by section 90 (1)) ;
- " appropriate department " (by section 90 (1)) ;
- " occupier " (by section 90 (1)) ;
- " owner " (by section 90 (1)).

The Minister is the Minister of Home Security, see note to section 1, *ante*.

The powers under subsection (2) are in addition to the powers under the Public Health (Coal Mine Refuse) Act, 1939, *ante*.

For Part III of P.H.A., 1936, and section 92, see 29 Statutes 394 ; see also Halsbury's Laws of England, 2nd Edn., Vol. 24, pp. 57 *et seq*.

45. Camouflage.—The Minister may serve on the occupier of

any factory premises, the owner of any mine or any public utility undertakers a notice in writing requiring him or them, within the time specified in the notice, to take or complete such measures as may be specified in the notice to secure that the factory premises, the mine or, as the case may be, any of the premises of the undertakers, are or can be made less readily recognisable by aircraft in the event of hostile attack.

[187]

The following expressions in this section are defined :—

- "occupier" (by section 90 (1));
- "factory premises" (by section 89 (2));
- "owner" (by section 90 (1));
- "mine" (by section 89 (3));
- "public utility undertakers" (by section 90 (1)).

The Minister is the Minister of Home Security, see note to section 1, *ante*.

46. Grants under Part VI.—(1) There may be paid out of moneys provided by Parliament, towards the approved expenses of any person on whom a notice has been served under the two last preceding sections in taking the measures specified in the notice, grants not exceeding one-half of those expenses. [188]

(2) In this section "approved expenses" means such expenses of a capital nature as the Minister, or, in the case of measures specified in a notice served by the appropriate department, that department, acting in accordance with general directions of the Treasury, may approve for the purposes of this section. [189]

The following expressions in this section are defined :—

- "approved expenses" (by subsection (2) hereof);
- "appropriate department" (by section 90 (1)).

The Minister is the Minister of Home Security, see note to section 1, *ante*.

47. Penalty for failure to comply with notice.—If any persons on whom a notice is served under any of the preceding provisions of this Part of this Act fail to comply with the requirements thereof, they shall be liable on summary conviction to a fine not exceeding one hundred pounds, and, if the failure in respect of which they were so convicted continues after the conviction, they shall be liable on summary conviction to a fine not exceeding fifty pounds for each day on which the offence continues :

Provided that the court by which any persons are convicted under this subsection may fix a reasonable period from the date of the conviction for the compliance by them with the requirements of the notice, and, where the court has fixed such a period, the said daily penalty shall not be recoverable in respect of any day before the expiration thereof.

[190]

This is a continuing offence, see note to section 14 (2), *ante*. Note the proviso in favour of the defendant.

48. Saving for provisions of Part V.—The preceding provisions of this Part of this Act relating to public utility undertakers shall not be construed as limiting the generality of the provisions of Part V of this Act, but no grant shall be made both under this Part of this Act and that Part of this Act in respect of the same expenses.

[191]

49. Provisions as to practice of dimming lights.—(1)

Nothing in any enactment requiring a local authority to cause the whole or any part of their area to be lighted shall render it unlawful for the authority to cause the lights in highways and public places in the whole or any part of their area to be dimmed or extinguished for the purpose of—

- (a) training or exercising any persons in respect of air-raid precautions ; or
- (b) testing devices for enabling movement of traffic to continue in unlighted streets. [192]

(2) Nothing in any enactment or in any order or regulation made under any enactment relating to lighting of factory premises, mines, or public utility undertakings shall render it unlawful for the occupier of any factory premises, the owner of any mine, or the persons carrying on any public utility undertaking to cause the lights in the factory premises, mine, or undertaking to be dimmed or extinguished for the purpose of—

- (a) assisting a local authority in training or exercising any persons in respect of air-raid precautions ; or
- (b) training or exercising persons employed in the factory premises, mine, or public utility undertaking in respect of air-raid precautions. [193]

(3) This section shall be deemed to have had effect as from the commencement of the Act of 1937. [194]

The following expressions in this section are defined :—

“ factory premises ” (by section 89 (2)) ;

“ owner ” (by section 90 (1)) ;

“ mine ” (by section 89 (3)) ;

“ public utility undertakers ” (by section 90 (1)).

This section is deemed to have had effect from 22nd December, 1937.

Subsection (1) ceases to have any practical application while the Lighting (Restrictions) Order, 1939, dated 1st September, S.R. & O. 1939 No. 1098 is in force. By r. 1 of that order : “ No person shall during the hours of darkness cause or permit . . . any light, not being a light in a roofed building, closed vehicle or other covered enclosure, to be displayed ”. “ Person ” includes a corporation (Interpretation Act, 1889, section 19 ; 18 Statutes 1001).

PART VII

MEASURES TO DEAL WITH CASUALTIES AND DISEASE

PRELIMINARY NOTE

Section 50 (1) gives the broad lines upon which the Minister of Health is arranging the Emergency Hospital Scheme. See generally thereon Ministry of Health Memorandum “ Emergency Medical Services ”, No. 2, and Command Paper 6061. The section deals with the provision of :—

- (i) *facilities for hospital treatment for casualties* caused by hostile attack, including all incidental matters relating thereto such as inter-hospital transport ;
- (ii) *training of nurses in advance of war*.—To meet this object a Central Emergency Committee for the Nursing Profession has been set up to deal with the systematic recording of all the available persons in voluntary and other categories, and to organise training and practice.

Local authorities working a scheme of first-aid posts under the Act of 1937 must by section 54 (2) of this Act arrange for training in nursing under this scheme

- (iii) *bacteriological services*.—Existing public health laboratories are to be kept going, and the Minister will be prepared to agree to contribute up to half the approved cost of arranging for a duplicate laboratory connected with an existing laboratory in a limited number of cases in which such provision in advance seems expedient. In addition to these, emergency laboratories outside the danger areas have already been planned by the Medical Research Council to deal with extra work. Bacteriological services to patients in emergency hospitals, as distinct from these research services, are to be provided under the heading of hospital treatment for casualties and not under the laboratory scheme.

First-aid posts are governed by the Air-Raid Precautions Act, 1937.

Grants to councils of counties and county boroughs in respect of works carried out in hospitals under their control are governed by section 53 (2), and the scale there laid down. With regard to other hospitals included under the emergency arrangements the Minister of Health may make agreements under section 50 (3) for the carrying out of works, and any expense incurred by him under the agreements shall be defrayed out of moneys provided by Parliament (section 53 (1)). The amount of the grant is therefore controlled by the agreement, and not by any scale in the Act. The Minister has however stated (Memorandum 1850, paragraphs 26 and 27) that he will apply to councils of county districts the scales laid down by section 53 (2) for county and county borough councils, and to voluntary hospitals the general agreement reached between the Minister and the British Hospital Association. See section 55 where councils of county districts are included in any combination of authorities for the provision or maintenance of hospitals.

Part VII applies to a limited number of persons, most of whom will be in possession of Ministry of Health Memorandum 1850, which comments fully on the sections. The annotations below should be supplemented by reference to this and the other publications mentioned.

50. Powers of Minister of Health.—(1) It shall be, and shall be deemed always to have been, part of the functions of the Minister of Health (in this Part of this Act referred to as “the Minister”) to make arrangements—

- (a) to secure that, in the event of war, facilities will be available for the treatment in hospital of casualties occurring in Great Britain from hostile attack ;
- (b) for the training in advance, in nursing, of persons who express their willingness to offer their services in the event of war ;
- (c) for the provision of a bacteriological service for controlling the spread of infectious disease in the event of war. [195]

(2) In order to afford accommodation for the treatment in hospital of such casualties as aforesaid, the arrangements aforesaid may provide for the removal, in the event of a hostile attack or of the Minister having reason to expect a hostile attack, of sick persons, persons of unsound mind and mental defectives from the place in which they are being treated or maintained, and for their treatment or maintenance, as the case may be, in some other place. [196]

(8) For the purpose of any arrangements under this section, the Minister shall have power—

- (a) to acquire and hold land, erect buildings and execute works ;
- (b) to acquire and hold medical stores and equipment, and do all such things as may appear to him expedient for the storage, preservation and transport of such stores and equipment ;

- (c) to enter into agreements with local authorities, governing bodies of voluntary hospitals and such other persons as he thinks fit. [197]

(4) In relation to the acquisition of land by the Minister under this Part of this Act, the provisions of the Lands Clauses Acts, as amended by the Acquisition of Land (Assessment of Compensation) Act, 1919, are hereby incorporated with this Act, subject to the exceptions and modifications mentioned in the Second Schedule to this Act.

[198]

(5) Any land, stores or equipment held by the Minister under this Part of this Act shall be held on behalf of His Majesty, and the Minister shall, subject to such conditions as may be determined by the Treasury, have power for any purpose to manage, sell, let or exchange any such land (including power to pay or receive money in respect of equality of exchange) and to dispose of any such stores or equipment.

[199]

(6) In this Part of this Act the expression "treatment" in relation to a hospital does not include treatment in a first-aid post, and the expression "medical stores and equipment" includes stretchers, ambulances and any other articles which, in the opinion of the Minister, are necessary or expedient for facilitating the treatment in hospital of casualties occurring in Great Britain from hostile attack. [200]

The following expressions in this section are defined by subsection (6) hereof:—

"treatment";

"medical stores and equipment".

Note particularly that the Minister is the Minister of Health (subsection (1)).

The powers under this section are retrospective: "It shall be, and shall be deemed *always to have been*" part of the functions of the Minister of Health to make the arrangements contemplated (subsection (1)).

Where a transfer of mental cases is made under subsection (2), see Regulation 32A of the Defence Regulations, 1939.

See Ministry of Health Circular 1849, dated 29th August, 1939, entitled "Emergency Hospital Scheme. Equipment of Hospitals".

For the Lands Clauses Acts as amended by the Acquisition of Land (Assessment of Compensation) Act, 1919, see 2 Statutes 1113 *et seq.* The terms should be consulted in detail in conjunction with Schedule II of this Act, *post*.

First-aid posts are regulated by the Air-Raid Precautions Act, 1937. Note the proviso to section 54 (2), *post*, regarding the training of nurses for first-aid posts.

51. Duties of local authorities.—It shall be the duty of the council of every county and county borough—

- (a) to provide, in such premises under their control as are reasonably available for the purpose, for the storage and preservation of such medical stores and equipment acquired by the Minister under this Part of this Act as the Minister may direct;
- (b) to execute such works (other than the erection of new buildings) as the Minister may require for the purpose of rendering any premises under the control of the council suitable for a hospital for the treatment of casualties occurring in Great Britain from hostile attack or for the purpose of protecting persons in hospitals under the control of the council from injury in the event of hostile attack;
- (c) to hold at every hospital under the control of the council specified by the Minister such drugs and other medical stores, beds, mattresses and bedding and other ward equipment as

the Minister may direct, so however that the quantity thereof shall not exceed—

(i) in the case of drugs and other medical stores, the quantity ordinarily used in the hospital in the course of a period of four weeks ;

(ii) in the case of beds and mattresses, eleven-tenths of the number of beds and mattresses ordinarily kept in the wards ;

(iii) in the case of bedding, six-fifths of the quantity of bedding required for the beds ordinarily kept in the wards ; and

(iv) in the case of other ward equipment, six-fifths of the quantity thereof ordinarily kept in the wards. [201]

The following expressions are defined by section 50 (6) :—

“ medical stores and equipment ” ;
“ treatment ”.

The Minister is the Minister of Health (section 50 (1)).

See Ministry of Health Memorandum “ Emergency Medical Services, No. 1 ”, January, 1939, and Circular 1850.

Relation to Act of 1937.—This section reduces to precision the general terms of section 11 of the Air-Raid Precautions Act, 1937, and is to be read in conjunction with the Air-Raid Precautions (General Schemes) Regulations, 1938, S.R. & O., 1938, No. 251. Section 54, to prevent overlapping, abolishes the powers conferred upon the Secretary of State (now the Minister of Home Security) by the Air-Raid Precautions Act, 1937, in so far as similar powers are exercisable by the Minister under this Act.

Combinations of councils.—The duties under this section may be exercised by combinations of councils (section 55 (1), *post*).

52. Temporary transfer of officers.—(1) The Minister and the council of any county or county borough may agree that the services of any officer of the council shall be placed at the disposal of the Minister, for such period and on such terms as may be specified in the agreement, for the purpose of assisting the Minister in the exercise of his powers under this Part of this Act. [202]

(2) The service of an officer under the Minister in pursuance of such an agreement shall be deemed to be service under the council for the purpose of the Local Government Superannuation Act, 1937, or of any other Act (including any local Act) relating to the superannuation of any employees of the council, or of any scheme under any of those Acts. [203]

The Minister is the Minister of Health (section 50 (1)).

For the Local Government Superannuation Act, 1937, see 30 Statutes 385.

53. Financial provisions.—(1) All expenses incurred by the Minister with the consent of the Treasury for the purpose of any such arrangements or in carrying out any such agreement as is mentioned in the preceding provisions of this Part of this Act shall be defrayed out of moneys provided by Parliament. [204]

(2) In respect of each period of twelve months ending with the thirty-first day of March, there shall be payable out of moneys provided by Parliament, to the council of any county or county borough who execute works in that period for the purpose of rendering any premises under the control of the council suitable for a hospital for the treatment of casualties occurring in Great Britain from hostile attack or for the

purpose of protecting persons in hospitals under the control of the council from injury in the event of hostile attack, a grant of whichever is the greater of the following two amounts, namely—

- (a) seven-tenths of the approved expenses incurred by the council in that period in the execution of those works ; or
- (b) the amount by which such expenses exceed one-tenth of the produce of a rate of one penny in the pound levied in the area of the council for that period.

This subsection shall have effect with respect to the period ending with the thirty-first day of March nineteen hundred and thirty-nine and all subsequent periods. [205]

(3) For the purpose of this section, the amount of the produce of a rate of one penny in the pound for any period shall be ascertained in the manner required by paragraph 3 of the Schedule to the Act of 1937, and the expression " approved expenses " means such expenses of a capital nature, incurred in the execution of such works, as the Minister, acting in accordance with general directions of the Treasury, may approve for the purposes of this section. [206]

The following expressions in this section are defined :—

" treatment " (by section 50 (6));

" approved expenses " (by subsection (3) hereof).

The Minister is the Minister of Health (section 50 (1)).

Note that the first accounting period under this subsection was the year 1st April, 1938, to 31st March, 1939.

Subsection (2) only applies to the execution of works and does not apply to the provision of stores and equipment.

54. Powers conferred by this Part to be in substitution for powers under Act of 1937.—(1) The powers conferred upon the Secretary of State under the Act of 1937 shall cease to be exercisable in so far as similar powers are exercisable by the Minister under this Part of this Act. [207]

(2) Subject to the provisions of this subsection, no air-raid precautions scheme shall make provision for the treatment in hospital of casualties occurring in Great Britain from hostile attack or the training in advance of persons in nursing, and any such scheme in force at the commencement of this Act shall cease to have effect in so far as it makes such provision :

Provided that every local authority who, whether under an air-raid precautions scheme or otherwise, make provision for treatment of casualties in first-aid posts shall cause a suitable number of persons who are to serve in the posts to be trained in nursing under the arrangements made under the preceding provisions of this Part of this Act by the Minister, and shall make such payments in respect of the training of those persons and comply with such other terms as the Minister may direct.

[208]

(3) Approval shall not be given under the Act of 1937 to any expenditure of the local authority incurred under this Part of this Act or otherwise incurred in connection with any of the matters for which, under the last preceding subsection provision cannot validly be made in an air-raid precautions scheme :

Provided that this subsection shall not apply to any such payments as are mentioned in the proviso to subsection (2) of this section.

[209]

The Minister is the Minister of Health (section 50 (1)).
Expenditure under the Air-Raid Precautions Act, 1937, is governed by section 7 of that Act.

55. Provisions as to combination of councils.—(1) So much of this Part of this Act as confers powers or imposes duties on the councils of counties or county boroughs shall be construed as conferring the like powers and imposing the like duties on any combination of councils existing for the purpose of the provision or maintenance of hospitals, being a combination which includes one or more such councils as aforesaid. [210]

(2) Where any such combination as aforesaid includes the council of any county district, no part of the expenses of exercising any powers or performing any such duties as aforesaid shall be borne by the council of the county district and the share borne by any councils of counties or county boroughs included in the combination shall be rateably increased accordingly. [211]

(3) No sums shall be paid to any such combination out of moneys provided by Parliament under the provisions of this Part of this Act relating to grants out of such moneys, but so much of any expenses incurred by any such combination (being approved expenses within the meaning of the said provisions) as is borne by the council of any county or county borough shall be taken into account in computing the grant to be made to that council under those provisions. [212]

See also the provisions of section 73 as to transfer of functions of a defaulting authority; for such transfer the Minister in relation to purposes of Part VII is the Minister of Health (section 73 (7)).

PART VIII

MISCELLANEOUS

56. Evacuation of civil population.—(1) It shall be the duty of every local authority, at the request and in accordance with the directions of the Minister—

- (a) to collect and furnish to him such information as he may require for the purpose of assisting the preparation by His Majesty's Government of plans for the transference of members of the civil population from one area to another in the event of war or the imminence of war, and for the accommodation and maintenance of the persons transferred;
 - (b) to take in advance measures designed to facilitate any such transference or secure the accommodation or maintenance of persons so transferred;
 - (c) to provide, in such premises under their control as are reasonably available for the purpose, for the storage and preservation of such material and equipment acquired by the Minister under this section as the Minister may direct; and
 - (d) to take part in carrying out any such plan. [213]
- (2) Any local authority may, for the purpose of enabling them

to comply with any such request or directions as aforesaid, serve on the occupier of any premises a notice requiring him to send to the authority, within such time as may be specified in the notice, such particulars with respect to the premises and to the number of persons resident therein as may be so specified, and any person who fails to comply with the notice shall be liable on summary conviction to a fine not exceeding five pounds. [214]

(8) The Minister, if it appears to him that, in view of the imminence or existence of an emergency involving the possibility of hostile attack, it is expedient so to do, may make regulations for the purpose of securing accommodation for any persons transferred under any such plan as is mentioned in subsection (1) of this section, and without prejudice to the generality of the preceding words, any such regulations may—

- (a) provide for occupiers of premises being required to furnish in the premises such accommodation as may be specified in the requirement ;
- (b) declare the circumstances in which, and the extent to which, responsibility shall be assumed by occupiers of premises for the feeding and care of any children accommodated therein under the regulations ;
- (c) authorise the imposition, on summary conviction, of fines not in any case exceeding fifty pounds or imprisonment not exceeding three months, for failure to comply with any requirements imposed by or under the regulations. [215]

(4) There shall be paid out of moneys provided by Parliament to any local authority grants equal to the total amount of their expenses under this section, being expenses approved for the purposes of this subsection by the Minister, acting in accordance with general directions of the Treasury. [216]

(5) Any expenses incurred with the consent of the Treasury by the Minister in or in connection with the acquisition or storage on behalf of His Majesty of equipment and other material with a view to the accommodation or maintenance of members of the civil population who may be transferred under any such plan shall be defrayed out of moneys provided by Parliament. [217]

(6) Subject to the special provisions of this Act with respect to the administrative county of London, in this section the expression " local authority " means the council of a county, county borough or county district. [218]

(7) Section six of the Act of 1937 is hereby repealed. [219]

(8) This section shall be deemed to have had effect as from the commencement of the Act of 1937 :

Provided that no person shall be under any liability in respect of anything done or omitted to be done before the passing of this Act which he would not have been under if this Act has not passed. [220]

The following expressions in this section are defined :—

" local authority " (by subsection (6) hereof) ;

" occupier " (by section 90 (1)).

The Minister is the Minister of Home Security (see note to section 1, ante).

This section is deemed to have had effect from 22nd December, 1937 (subsection (8), but note the proviso thereto).

The Defence Regulations, 1939, Regulations 22, 31A, 31B and 32A, and the orders made thereunder, deal with procedure under an "evacuation plan", defined by Regulation 100 (1) (as amended by S. R. & O. 1939 No. 1416) as "such a plan as is mentioned in subsection (1) of section fifty-six of the Civil Defence Act, 1939".

The special provisions as to London are contained in section 84, *post*; see also article 4 of the Civil Defence (London Authorities) Order, 1939, S.R. & O. 1939 No. 899.

57. Requisition of premises and vehicles.—(1) The Minister, if it appears to him that, in view of the imminence of an emergency involving the possibility of hostile attack, it is expedient so to do, may by order declare the provisions of this section to be in operation, and while such an order is in force—

- (a) any local authority may take possession of any premises designated by them under Part II of this Act;
- (b) the Commissioners of Works may take possession of any premises which in the opinion of the Commissioners should, in order to meet the exigencies of the situation which would arise in the event of hostile attack, be rendered available for use by any Government department or other persons acting on behalf of the Crown in a civil capacity; and
- (c) any local authority having any civil defence functions may take possession of any vehicle and use it in the discharge of any of those functions:

Provided that possession shall not be taken of any vehicle by virtue of such an order without the previous consent of the chairman of the traffic commissioners for the area in which the vehicle is normally kept, or, if the vehicle is normally kept in the metropolitan traffic area, the traffic commissioner for that area, unless arrangements have been made with the approval of the chairman of the traffic commissioners or the traffic commissioner, as the case may be, between the owner of the vehicle and the local authority that the vehicle should be available for use as aforesaid by the local authority. [221]

(2) Where an order has been made under this section, the local authority or the Commissioners of Works, as the case may be, may remove, or require the occupier to remove, any property which is in any premises or vehicle of which possession is intended to be taken under this section, and may take such other steps as may be necessary for putting the premises or vehicle in a condition which will enable them to be used for the purpose intended; and any occupier who refuses to move any property when required to do so by the local authority or Commissioners and any person who obstructs any person acting on behalf of the authority or Commissioners in the exercise of their powers under this section shall be liable on summary conviction to a fine not exceeding one hundred pounds. [222]

(3) In any case in which a local authority take possession of any premises or vehicle, or the Commissioners of Works take possession of any premises under this section, there shall be paid by that local authority, or, if possession is taken by the Commissioners of Works, out of moneys provided by Parliament, such compensation to such persons as Parliament may hereafter determine. [223]

(4) Possession shall not be retained by virtue of any order made

under this section after the expiration of three months from the date of the making of the order. [224]

The expression "civil defence functions" is defined by section 90 (1), *post*.

The Minister is the Minister of Home Security (see note to section 1, *ante*).

"Local authority" is not defined specifically for the purposes of this section.

As to Traffic Commissioners, see section 63 of the Road Traffic Act, 1930 (23 Statutes 656).

No order has been made bringing this section into operation, and the powers of requisitioning at present operative are those contained in regulations 51 and 53 of the Defence Regulations, 1939, S.R. & O. 1939 No. 927, *post*.

Compensation is as provided by subsection (3) and not under section 74, *post*.

As to summary procedure generally see Halsbury's Laws of England, 2nd Edn., Vol. 21, pp. 594 *et seq*.

58. Special provisions as to supply of water for extinguishing fires.—(1) Any fire authority to whom this section is applied by order of the Minister may submit to the Minister a scheme for securing that special supplies of water will be available for extinguishing fires caused by hostile attack and any such scheme may for that purpose make provision among other matters for—

- (a) the laying of mains and pipes for the conveyance of water ;
- (b) the installation on bridges, embankments and other places adjoining any water (not being water contained in a reservoir or other works of any public utility undertakers or persons carrying on any hydraulic power undertaking) pipes or other apparatus for enabling water to be withdrawn ;
- (c) the acquisition of fire floats ;
- (d) the construction of underground tanks. [225]

(2) The Minister may approve, with or without modifications, any scheme submitted to him under this section, and any such scheme shall, upon being so approved, come into force on such date as may be provided by the scheme as approved ; and any such scheme may be amended by a subsequent scheme submitted and approved in like manner as the original scheme. [226]

(3) There may be paid out of moneys provided by Parliament towards the approved expenses incurred (whether before or after the passing of this Act) by any fire authority grants not exceeding nine-tenths of those expenses :

Provided that no grant shall be made under this subsection in respect of any expenses incurred on any works unless—

- (a) the works are completed before the end of September nineteen hundred and thirty-nine ; or
- (b) the works are then in progress or preparatory measures are then being taken for the carrying out thereof and (in each case) the Minister is satisfied that they will be completed within a reasonable time thereafter.

In this subsection, the expression "approved expenses" means such expenses of a capital nature as the Minister, acting in accordance with general directions of the Treasury, may approve for the purposes of this subsection, being expenses incurred in carrying out measures mentioned in a scheme approved under this section. [227]

(4) The London County Council may be authorised by a scheme submitted by them under this section to exercise, for the purpose of securing supplies of water for extinguishing fires caused by hostile

attack, any powers exercisable under subsection (2) of section twenty-eight of the Public Health (London) Act, 1936, in connection with their sewerage and drainage functions, and if they are so authorised, section thirty of that Act (which confers power to stop up streets) shall apply accordingly. [228]

(5) Any fire authority (other than the London County Council) may be authorised by a scheme submitted by them under this section or by an order of the Minister to exercise, for the purpose of securing supplies of water as aforesaid, all or any of the powers exercisable by a local authority under the Public Health Act, 1936, for the purpose of providing their district with a supply of water under that Act, other than powers of compulsory purchase. [229]

(6) Any water undertakers may, by agreement with a fire authority, carry out as agents of the authority any works which the authority are authorised to carry out for the purpose of securing supplies of water as aforesaid, whether under a scheme submitted under this section or otherwise. [230]

(7) Section five of the Act of 1937 (which confers power to purchase land compulsorily) shall apply for the purposes of any scheme submitted and approved under this section, and where such a scheme provides for the construction of an underground tank the scheme may confer on the fire authority, for the purpose of constructing the tank and installing any pumping plant or other necessary apparatus, the like powers as are conferred on local authorities by Part II of this Act for the purpose of constructing underground air-raid shelters and works connected therewith, and the provisions of that Part relating to the construction and vesting of such shelters and works and to matters connected therewith shall apply accordingly. [231]

(8) The Minister shall not approve any scheme under this section unless it contains such provisions as he considers necessary for preventing—

- (a) the contamination of any water supplied by water undertakers; and
- (b) the use for domestic purposes of any water conveyed in any main or pipe laid under the scheme. [232]

The following expressions in this section are defined :—

“ fire authority ” (by section 90 (1)) ;

“ public utility undertakers ” (by section 90 (1)) ;

“ approved expenses ” (by subsection (3) hereof for the purposes of this subsection).

The Minister is the Minister of Home Security (see note to section 1, *ante*).

This section has been applied to the fire authority for the administrative county of London and for the boroughs of Birmingham, Bristol, Liverpool and Manchester by an order dated 22nd August, 1939, S.R. & O. 1939 No. 944; to the fire authority for the city of Bradford by an order dated 22nd September, 1939, S.R. & O. 1939 No. 1352, and to the fire authorities for the boroughs of Newcastle-on-Tyne, Nottingham and Sheffield by an order dated 20th October, 1939, S.R. & O. 1939 No. 1499.

For section 28 (2) of P.H. (L.) A., 1936, see 30 Statutes 458, and for section 30 *ibid.*, 460.

See Part IV of P.H.A., 1936 (29 Statutes 407) and Halsbury's Laws of England, 2nd Edn., Vol. 33, pp. 388 *et seq.*

59. Power of Minister of Transport to acquire plant and materials for repair of roads and bridges.—(1) In accordance with arrangements approved by the Treasury, the Minister of Transport may acquire and hold or make arrangements for the acquisition and holding on his behalf of stocks of plant and materials for the purpose

of their being available for the repair of roads and bridges damaged by hostile attack, and may do such things as may appear to him necessary for the storage, preservation and transport of those stocks.

[233]

(2) The Minister of Transport shall, subject to such conditions as may be determined by the Treasury, have power to use or dispose of any plant or materials forming part of any such stocks. [234]

(3) The expenses of the Minister of Transport under this section shall be defrayed out of moneys provided by Parliament. [235]

See also the very wide powers of the Minister of Transport, as a competent authority for those purposes, to requisition property under the Defence Regulations.

60. Power of Minister as to stocks of building material.—

(1) In accordance with arrangements approved by the Treasury, the Minister may acquire and hold or make arrangements for the acquisition and holding on his behalf of stocks of plant and materials for the purpose of their being available for the repair of buildings damaged by hostile attack and may do such things as may appear to him necessary for the storage, preservation and transport of those stocks. [236]

(2) The Minister shall, subject to such conditions as may be determined by the Treasury, have power to dispose of any plant or materials forming part of any such stocks. [237]

(3) The expenses of the Minister under this section shall be defrayed out of moneys provided by Parliament. [238]

The Minister is the Minister of Home Security (see note to section 1, *ante*). The Minister is also a competent authority for the purposes of Regulations 53 and 55 of the Defence Regulations, 1939.

61. Power of Minister to make byelaws with respect to land used for experiments with explosives.—The Minister shall—

(a) as respects any land held on behalf of the Crown and appropriated for the use of the Minister for the purpose of carrying out experiments with explosives; or

(b) as respects any other land which the Minister has the right to use for the said purpose,

have the same power of making byelaws as is conferred on a Secretary of State as respects land appropriated for a military purpose or, as the case may be, as respects land which he has the right to use for such a purpose, and the provisions of the Military Lands Act, 1892, and the Military Lands Act, 1900, relating to byelaws shall with the necessary modifications apply accordingly. [239]

The Minister is the Minister of Home Security (see note to section 1, *ante*). For the Military Lands Acts, 1892 and 1900, see 17 Statutes 574, 597: see generally Halsbury's Laws of England, 2nd Edn., Vol. 28, pp. 686-688.

62. Power of local authorities and public utility undertakers to appropriate lands and buildings for purposes of civil defence.—(1) Subject to the provisions of this section—

(a) any local authority having any civil defence functions or any public utility undertakers who have been served with a notice under Part V of this Act may (without any formal

appropriation thereof) use any lands or buildings owned by, leased to or under the control of the authority or undertakers for the purpose of discharging any of those functions, or taking measures specified in the notice as the case may be, and

- (b) any local authority (as defined in the Act of 1937) may permit any other local authority having any civil defence functions to use, for the purpose of discharging any of those functions, any lands or buildings owned by, leased to or under the control of the first-mentioned authority,

and the provisions of this subsection shall have effect notwithstanding anything contained in any Act (including a local or private Act) or any trust or covenant or restriction affecting the use of those lands or buildings. [240]

(2) The powers conferred by this section shall, after the passing of this Act, only be exercisable with the approval of the Minister and subject to any conditions he may impose in relation to any particular exercise thereof. [241]

(3) The Minister may at any time give directions to the local authority or, as the case may be, the local authorities or the public utility undertakers that as from any date specified in the direction, any use of any lands or buildings under this section shall cease, and any such directions may require the lands or buildings to be restored, to such extent as may be specified, to their former condition, and it shall be the duty of the local authority or local authorities or public utility undertakers to comply with any such direction. [242]

(4) In this section the expression "use," in relation to lands owned by or leased to a local authority, includes the erection of buildings and other structures thereon, the making of excavations therein, and the alteration and maintenance of any such buildings, structures or excavations, and, in relation to buildings owned by or leased to an authority, includes the alteration and maintenance of those buildings. [243]

(5) This section shall be deemed to have had effect as from the commencement of the Act of 1937. [244]

The following expressions in this section are defined :—

"civil defence functions" (by section 90 (1));

"public utility undertakers" (by section 90 (1));

"use" (by subsection (4) hereof).

"Local authority" is not defined generally for the purposes of this section.

This section is (except for subsection (2)) deemed to have had effect from 22nd December, 1937.

63. Amendment of s. 5 of Act of 1937.—(1) Where by an order made and confirmed under section five of the Act of 1937 (either as originally enacted or as amended or as applied by any provision of this Act) a local authority are authorised to purchase land compulsorily, then at any time after serving a notice to treat and after giving to the occupier of the land not less than fourteen days' notice, they may enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance

with sections eighty-four to ninety of the Land Clauses Consolidation Act, 1845, but subject to the payment of the like compensation for the land for which possession is taken, and interest on compensation awarded, as would have been payable if those provisions had been complied with. [245]

(2) Notwithstanding anything in the Local Government Act, 1938, an order for the compulsory acquisition of land which is duly submitted under the said section five (either as originally enacted or as so amended or applied as aforesaid) may, if the Minister thinks fit, be confirmed without an inquiry, whether or not there has been an objection. [246]

The following expressions in this section are defined by section 90 (1), *post* :—

“ land ” ;

“ occupier ”.

For section 5 of the Act of 1937, see 30 Statutes 1028.

Sections 84 to 90 of the Lands Clauses Consolidation Act, 1845 (2 Statutes 1142) deal with entry upon lands.

See section 161 of L.G.A., 1933 (26 Statutes 394).

64. Compulsory hiring of land.—(1) The council of any county or county borough, the common council of the city of London, and the council of any metropolitan borough or county district may hire compulsorily any land to which this section applies for any of the purposes of the Act of 1937 or of this Act by means of an order made by the council and confirmed by the Minister, and the provisions of the enactments having effect with respect to the compulsory acquisition of land by any such council as aforesaid for the purposes of their civil defence functions (including any such enactments contained in this Act) shall, with such exceptions and subject to such adaptations and modifications as may be prescribed by regulations of the Minister under this section, have effect with respect to the compulsory hiring of land by means of such an order. [247]

(2) The Minister shall make regulations for the purposes of this section and any such regulations may, in addition to prescribing the matters aforesaid, contain such provisions as the Minister considers necessary or expedient in connection with the making of any such orders or the carrying thereof into effect. [248]

(3) Land to which this section applies is unoccupied land and land in the occupation of a tenant whose tenancy thereof will expire or can be determined by his landlord (otherwise than for breach of any of the conditions of the tenancy) within a period of three years after the making of an order for the compulsory hiring of that land pursuant to the provisions of subsection (1) of this section. [249]

(4) Any reference in this section to land includes a reference to any building or part of a building. [250]

The following expressions in this section are defined :—

“ land ” (by subsections (3) and (4) hereof) ;

“ civil defence functions ” (by section 90 (1)).

The Minister is the Minister of Home Security (see note to section 1, *ante*).

No regulations have been issued under this section.

65. Powers of bodies corporate as to measures against hostile attack.—Any body corporate carrying on in Great Britain

any business or undertaking shall, whether they are public utility undertakers or not, have power and be deemed always to have had power, under any enactment, order, charter, memorandum or articles of association or other document regulating their powers and duties, to take any such measures in relation to their business or undertaking as public utility undertakers, or any class of public utility undertakers, are or can be authorised or required to take under any of the provisions of this Act. [251]

The expression "public utility undertakers" is defined by section 90 (1), *post*.

66. Extension of borrowing powers of trustees, &c.—

(1) The provision of air-raid shelter shall be deemed to be an improvement authorised by the Settled Land Act, 1925, and mentioned in Part II of the Third Schedule to that Act. [252]

(2) Any liquidator, trustee in bankruptcy, receiver, committee or other person acting in a fiduciary capacity who is, as such, the occupier of any factory premises, the owner of any mine or the owner of any commercial building or of any building or block of buildings to which section thirty of this Act applies shall, for the purpose of providing air-raid shelter or complying with any obligation imposed on him by or under any of the provisions of this Act, have power (in addition to any other powers enabling him in that behalf)—

(a) to utilize any moneys in his hands in his capacity as liquidator, trustee, receiver, committee or otherwise as aforesaid ;

(b) to raise money by the sale or mortgage of any property vested in him or under his control in that capacity,

and any money reasonably expended by him for the said purpose shall be treated as part of his expenses incurred in that capacity and shall be allowed in account accordingly. [253]

(3) Where the owner of any commercial building or any such building or block of buildings as aforesaid is a mortgagee, he shall be entitled to add to his security any money reasonably expended by him for the purpose of providing air-raid shelter in connection with the building or block or of complying with any obligation imposed on him by or under this Act as owner of the building or block. [254]

The following expressions in this section are defined :—

"air-raid shelter" (by section 90 (1)) ;

"occupier" (by section 90 (1)) ;

"factory premises" (by section 89 (2)) ;

"owner" (by section 90 (1)) ;

"mine" (by section 89 (3)) ;

"commercial building" (by section 89 (5)).

For section 83 of the Settled Land Act, 1925, see 17 Statutes 920.

67. Property in equipment, appliances and material provided by the Crown or local authorities.—

(1) The property in any equipment, appliances or material provided on behalf of His Majesty under the Act of 1937 free of charge shall remain in His Majesty ; and the provisions of this subsection shall continue to have effect notwithstanding the affixing of the equipment, appliances or material to any premises.

In paragraph (b) of subsection (1) of section eleven of the Act of 1937 the word "gifts" is hereby repealed. [255]

(2) Any equipment, appliances or material used in the execution of works executed by a local authority under Part II or Part IV of this Act shall, notwithstanding the affixing thereof to any premises, remain the property of the local authority. [256]

(3) Any person who, being in possession of any such equipment, appliances or material as is mentioned in any of the preceding provisions of this section (being equipment, appliances or material the property whereof remains in His Majesty or in the local authority), fails to use reasonable care for the preservation thereof shall, without prejudice to any other liability, be liable on summary conviction to a fine not exceeding five pounds. [257]

(4) If any equipment, appliances or material which have been affixed to any premises are removed therefrom by or on behalf of His Majesty or the local authority, any damage caused by the removal shall be made good. [258]

(5) This section shall be deemed to have had effect as from the commencement of the Act of 1937:

Provided that no person shall be under any liability in respect of anything done or omitted to be done before the passing of this Act which he would not have been under if this Act had not passed. [259]

For definition of "Local authority" under Part II, see section 11; under Part IV, see section 35, *ante*.

68. Penalty for unauthorised use of uniforms, medals and badges.—Any unauthorised person who uses or wears any uniform, medal, badge or emblem issued by or with the authority of the Minister for the use of persons engaged in any civil defence service, or any uniform, medal, badge or emblem which, by reason of its resemblance to any such uniform, medal, badge or emblem as aforesaid or otherwise, is designed to indicate that the user or wearer is engaged in a civil defence service, shall be liable on summary conviction to a fine not exceeding twenty pounds. [260]

The Minister is the Minister of Home Security (see note to section 1, *ante*).

69. Provision of air-raid shelter not to increase valuation for rating.—Section one of the Rating and Valuation (Air-Raid Works) Act, 1938 (which provides for the relief of air-raid protection works from rates) shall, in relation to a hereditament forming part of a building, have effect as if any structural alterations or improvements made in the building or on land appurtenant to the building for the purpose of providing air-raid shelter were structural alterations or improvements to the hereditament, and in ascertaining the value for rating purposes of a hereditament under the principal Act (as defined in the said section one) no regard shall be had to any increase in the rent thereof (whether made by virtue of this Act or not) which is attributable to the provision of air-raid shelter for persons living or working in the hereditament. [261]

The expression "air-raid shelter" is defined by section 90 (1), *post*.
For the Rating and Valuation (Air-Raid Works) Act, 1938, see 31 Statutes 614, section 1, subsections (1) to (3) provide:—

"1. *Relief of air-raid protection works from rates.*—(1) In ascertaining under the principal Act the value for rating purposes of a hereditament, no regard shall be had—

- (a) to any room or other part of the hereditament which has been added at any time after the hereditament was first assessed, or was included in the hereditament before it was first assessed, solely for the purpose of affording protection in the event of hostile attack from the air, and which is not occupied or used for any other purpose ;
 - (b) to any structural alterations or improvements to the hereditament (not being the addition of any such room or other part as aforesaid) made at any time after the hereditament was first assessed, solely for the purpose of affording such protection as aforesaid.
- (2) No person shall, in respect of any period, be liable to pay rates in respect of a hereditament which is intended to be occupied and used solely for the purpose of affording such protection as aforesaid, and which is not occupied or used for any other purpose, or be deemed to be in occupation thereof for rating purposes, and notwithstanding anything in the principal Act no such hereditament shall be included in any rate made in respect of any period.

(3) The fact of any such room or other part of a hereditament as is referred to in paragraph (a) of subsection (1) of this section, or of any such hereditament as is referred to in the last foregoing subsection, having been occupied or used for any purpose other than that of affording such protection as aforesaid shall, as respects a hereditament in the administrative county of London, for the purposes of section forty-seven of the principal Act, be a ground for making and sending to the assessment committee a provisional list and for making a requisition for such a list to be made and sent."

The "principal Act" outside the administrative county of London is the Rating and Valuation Act, 1925 (14 Statutes 617), as amended, and in the administrative county of London the Valuation (Metropolis) Act, 1869 (14 Statutes 552).

The present section extends the protection given by section 1 of the Act of 1938 to cases in which the structural alterations or protective works are not in the rateable hereditament but in another part of the building in which the hereditament is situate, or on land appurtenant to that building. As to increase of rent under this Act, see sections 19 and 30, *ante*, and *cf.* the notes to section 19. The protection of the present section extends to cases in which rent is increased by agreement.

70. Enlargement of scope of town planning schemes.—

There shall be included among the general objects for which a scheme may be made under the Town and Country Planning Act, 1932, the object of rendering the whole or any part of the area to which the scheme applies less vulnerable to air-raids, and that Act shall have effect accordingly as if the said object were included among the objects enumerated in section one thereof. [262]

For the Town and Country Planning Act, 1932, see 25 Statutes 470. The Act gives powers to local authorities with respect to any land to control development, promote sanitation amenity and convenience, and generally to protect existing amenities. The machinery for exercising these powers and various safeguards are provided in the Act. These provisions should be referred to for their terms. See generally the title TOWN AND COUNTRY PLANNING in Halsbury's Laws of England, 2nd Edn., Vol. 32, p. 211. The procedure is slow, and it is doubtful if this section has been of any practical value in the present emergency.

71. Compensation in the event of injury to persons engaged in air-raid precautions activities.—(1) This section applies to personal injuries sustained in the course—

- (a) of being trained or exercised or of training or exercising others, in respect of air-raid precautions ; or
 - (b) of being trained in nursing in pursuance of arrangements made by the Minister of Health under Part VII of this Act ; or
 - (c) of acting in a voluntary capacity on behalf of a local authority in the exercise of their civil defence functions,
- being injuries sustained in time of peace by such persons and in such circumstances as may be specified in a scheme made under subsection (2) of this section. [263]

(2) A scheme made by the Treasury may provide for the payment out of moneys provided by Parliament to or to the dependants of persons who suffer injuries to which this section applies of such periodical or lump sums as may be specified in the scheme. [264]

(3) A scheme under subsection (2) of this section may be revoked or varied by a subsequent scheme made thereunder. [265]

(4) Where any injury to which this section applies is sustained by any person, no compensation or damages shall be payable in respect of that injury, whether under any Act or at common law, by the employer of the injured person, by any person (including a local authority) who has any responsibility in connection with the training or exercising of the injured person, or by any person who is being trained or exercised together with the injured person. [266]

(5) In this section the expression "personal injury" includes any personal injury resulting in death. [267]

This section only refers to injuries sustained in time of peace, and is therefore not annotated. Compensation is now under the Personal Injuries (Emergency Provisions) Act, 1939, *post*, which refers to war injuries sustained by gainfully occupied persons and war service injuries sustained by civil defence volunteers. As to "employer" see section 89 (9) proviso, *post*.

72. Directions to local authorities to discharge functions with respect to air-raid precautions.—(1) The Minister may direct any local authority charged under the Act of 1937 with the duty of preparing an air-raid precautions scheme to discharge such functions, with respect to any matter which could be included in such a scheme made by that authority, as may be specified in the direction, whether or not a scheme providing for that matter has been made. [268]

(2) The council of any county may with the consent of the Minister, and shall when so required by him, direct the council of any county district in that county to discharge such functions, with respect to any matter which could be included in an air-raid general precautions scheme made by the county council, as may be specified in the direction, whether or not a scheme providing for that matter has been made. [269]

(3) If the council of a county fail to give any direction which the Minister has required them to give under the last preceding subsection, the Minister may give the direction himself. [270]

(4) It shall be the duty of a local authority who receive a direction under this section to discharge the functions specified in the direction. [271]

(5) Where the expenses incurred by the council of a county district in discharging functions specified in a direction given to them by the county council are not repaid to the district council by the county council, the county council shall repay to the district council any amount raised by the county council in the district in respect of the cost of similar functions discharged by the county council in other parts of the county.

Any question that may arise between a county council and a district council under this subsection shall be determined by the Minister. [272]

The Minister is the Minister of Home Security (see note to section 1, *ante*).

73. Power to transfer functions of defaulting authority.—

(1) If the Minister is satisfied after holding a local inquiry that any local authority have failed to discharge any functions which they are

required to discharge by or under this Act or the Act of 1937, he may, in lieu of enforcing the discharge of those functions by mandamus or otherwise—

- (a) if the defaulting authority are the council of a county district, make an order transferring the functions to the county council ;
- (b) in any case, make an order transferring the functions to himself. [273]

(2) The provisions of sections three hundred and twenty-three, three hundred and twenty-four and three hundred and twenty-five of the Public Health Act, 1936, (which relate to the exercise of default powers) shall apply to orders under this section as they apply to the orders mentioned in those sections, subject to the following adaptations, that is to say :—

- (a) the references to a council shall include references to the London County Council, the common council of the city of London and the council of a metropolitan borough ;
- (b) for the references to the Minister of Health there shall be substituted references to the Minister. [274]

(3) The provisions of subsections (2), (3), (4) and (5) of section two hundred and ninety of the Local Government Act, 1933, shall apply to any inquiry held under this section as they apply to local inquiries held under that section with the substitution for the references to the department of references to the Minister. [275]

(4) Where any order has been made under this section transferring the functions of a defaulting authority to the Minister or the council of any county, the Minister or the said council may agree with the defaulting or any other local authority that the services of any officer of that authority shall be placed at the disposal of the Minister or county council for such period not exceeding the duration of the order and on such terms as may be specified in the agreement for the purposes of assisting the Minister or the county council to discharge those functions. [276]

(5) The service of an officer under the Minister in pursuance of any such agreement shall be deemed to be service under the authority with whom the agreement is made for the purpose of the Local Government Superannuation Act, 1937, or of any other Act (including any local Act) relating to the superannuation of any employees of the authority, or of any scheme under any of those Acts. [277]

(6) Any expenses paid by or recovered from a defaulting authority by virtue of the application of the provisions of the said sections three hundred and twenty-three or three hundred and twenty-four, shall not be approved under the Act of 1937 so as to be approved expenditure incurred by that authority for the purposes of that Act. [278]

(7) In relation to the functions of a local authority under Part VII of this Act, the references in this section to the Minister shall be construed as references to the Minister of Health and paragraph (b) of subsection (2) shall not apply. [279]

The Minister is the Minister of Home Security (see note to section I, *ante*), except in relation to Part VII of the Act (see subsection (7) hereof).

Sections 323 and 324 of P.H.A., 1936 (29 Statutes 525), deal with financial arrangements consequent upon transfer of functions, and section 325 (*ibid.*, 527) deals with variation and revocation of orders of transfer and financial adjustments relating thereto. As to defaulting authorities see further Halsbury's Laws of England, 2nd Edn., Vol. 26, pp. 333, 334.

For section 290 (2), (3), (4), and (5) of L.G.A., 1933, see 26 Statutes 459 and Halsbury's Laws of England, 2nd Edn., Vol. 21, p. 196, note (*m*).

Approved expenditure is defined for the purposes of the Act of 1937 by section 12 (30 Statutes 1031).

For the Local Government Superannuation Act, 1937. See 30 Statutes 385.

PART IX

SUPPLEMENTAL

74. Determination of claims to compensation and increases of rent.—(1) Any question whether any, and if so what, compensation is payable under any of the provisions of this Act providing for payment of compensation, or what is the net ascertained cost of works for the purposes of the provisions of Part III of this Act relating to factory premises occupied on short leases or whether any and if so what increases or decreases of rent are to be made under the provisions of Part III or Part IV of this Act relating to increases and decreases of rents, shall be referred to and determined by such one or more of the official arbitrators appointed for the purposes of the Acquisition of Land (Assessment of Compensation) Act, 1919, as may be selected by the Reference Committee under that Act. [280]

(2) The said Reference Committee may make rules with respect to the references of questions under this section and, with the consent of the Treasury, may prescribe the fees to be paid in connection with any proceedings for the determination of any such question. [281]

(3) Subject to any such rules, the arbitrator shall before deciding any question as to any of the matters aforesaid direct such inquiries, if any, to be made and such notices, if any, whether by way of advertisement or otherwise, to be given to such of the persons who appear to be affected by the decision of the question, as he may think fit, and his decision upon any such question shall be binding on all persons whether or not those persons are parties to the proceedings or have been served with notices. [282]

(4) Subject to the preceding provisions of this section, the official arbitrator by whom any question which may be referred under this section is determined, shall have the like powers with respect to procedure (including the hearing of claims and objections together) costs and the statement of special cases, as he has under the Acquisition of Land (Assessment of Compensation) Act, 1919. [283]

(5) Additional members of the panel of official arbitrators for England and Wales may, with the assent of the Treasury, be appointed to deal only with cases arising under this Act, and in relation to persons so appointed subsection (3) of section one of the Acquisition of Land (Assessment of Compensation) Act, 1919, (which provides that official arbitrators shall hold office for a term certain and shall not engage in private practice) shall not apply. [284]

(6) This section shall not apply to any compensation payable in

respect of the compulsory acquisition or compulsory hiring of any land or in respect of personal injuries. [285]

For the Acquisition of Land (Assessment of Compensation) Act, 1919, see 2 Statutes 1176. See the Civil Defence (References to Official Arbitrators) Rules 1939, S.R. & O. 1939 No. 1913/L.35, and the Civil Defence (References to Official Arbitrators) Fees Rules, 1939, S.R. & O. 1939 No. 1914/L.36, made under this section.

As to subsection (6), see sections 62, 64 and 71, *ante*.

75. Supplementary provisions as to appeals to Minister.—

(1) The Minister may make rules as respects the appeals to him for which provision is made by this Act—

- (a) specifying the manner in which the appeals are to be brought ;
- (b) authorising persons to be appointed, in all or any specified class of cases, to inquire into the matters raised by any such appeal and to report thereon to the Minister ;
- (c) authorising any person so appointed to take evidence on oath and for that purpose to administer oaths, and to require the attendance of witnesses and the production of documents, and authorising the punishment on summary conviction of persons who fail to comply with any such requirement ;
- (d) making provision as to the costs incurred on any such appeal ;
- (e) otherwise regulating the procedure to be followed in connection with the investigation and determination of such appeals.

[286]

(2) If in any particular case the Minister considers it just so to do, he may by order extend the time limited by any provision of this Act for the bringing of an appeal to such extent, and on such terms, if any, as he thinks fit. [287]

The Minister is the Minister of Home Security, see note to section 1, *ante*.

Rules have been made under this section, entitled the Civil Defence (Appeals) Rules, 1939, S.R. & O. 1939 No. 1022.

76. Rules as to form of reports.—The Minister may by rules require that reports under this Act of such classes as may be specified in the rules shall be made in such form and include such particulars and information as may be so specified and, in relation to any report of a class to which rules so made apply, any obligation imposed by this Act to make a report shall be construed as an obligation to make a report in that form and including those particulars and that information. [288]

77. Penalty for false statements.—Any person who in any report made by him under this Act, or in reply to any notice served on him under the provisions of this Act relating to the evacuation of civil population, or with a view to securing that he or any other person is included in any plan for the transference under the said provisions of members of the civil population, makes any statement which he knows to be false shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment. [289]

As to evacuation of civil population, see section 56, *ante*.

78. Criminal liability of directors, officers, &c.—Where an offence punishable under this Act is committed by a body corporate

and is proved to have been committed with the consent or connivance of any director, manager, secretary or other officer of the body corporate or, if the body corporate is a local authority, any member or officer of that authority, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. [290]

This section is common form in the emergency statutes (following its occasional use in others). "Connivance" has remained undefined; on the analogy of connivance in divorce law it would seem to be a wilful shutting of the eyes to criminal acts or omissions which could be stopped if desired.

79. Power of factory inspectors and local authorities to enter premises and penalty for obstruction.—(1) Any factory inspector or mines inspector and any person duly authorised in that behalf by the Minister, the appropriate department, or a local authority having any civil defence functions shall, on producing some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours for the purpose of—

- (a) ascertaining whether there is or has been, on or in connection with the premises, any contravention of or failure to comply with the provisions of this Act or of any notice given or regulation made thereunder which it is the duty of the inspector, Minister, appropriate department or authority, as the case may be, to enforce;
- (b) ascertaining whether or not circumstances exist which would authorise or require any action to be taken under this Act;
- (c) otherwise facilitating the performance by the inspector, Minister, appropriate department or authority, as the case may be, of his or their civil defence functions. [291]

(2) The provisions of subsections (2), (3), (4) and (5) of section two hundred and eighty-seven of the Public Health Act, 1936, shall apply for the purposes of this section as they apply for the purposes of that Act as if for the words in the said subsection (2) "authorise the council by any authorised officer" there were substituted the words "authorise the Minister, appropriate department, or local authority by any authorised officer or, as the case may be, authorise the factory inspector or mines inspector" and as if after the words "authorised officer" in the said subsection (3) there were inserted the words "or inspector." [292]

(3) Any person who wilfully obstructs any inspector or any person duly authorised by the Minister, the appropriate department, or a local authority in the exercise of any right conferred by or by virtue of this section shall be liable on summary conviction to a fine not exceeding five pounds. [293]

The following expressions in this section are defined by section 90 (1), *post*—

- "factory inspector";
- "mines inspector";
- "appropriate department";
- "civil defence functions";

The Minister is the Minister the Home Security (see note to section 1, *ante*).

Local authority is not defined for the purposes of this section, but means in respect of each function the local authority for the purposes of that function, as defined by the various sections of this Act.

For subsections (2), (3), (4) and (5) of section 287 of P.H.A., 1936, which deal with entry of premises and obstruction. see 29 Statutes 508.

80. Service of documents.—Any document which is required or authorised by or under this Act to be given to or served on any person may be given or served either—

- (a) by delivering it to that person ; or
- (b) by leaving it or sending it in a prepaid letter addressed to him at his last known residence or his last known place of business ; or
- (c) in the case of a document to be given to or served on the occupier of any premises, by addressing it to the person concerned by the description of "occupier" of the premises to which it relates and delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it or a copy of it to some conspicuous part of the premises. [294]

"A person resides where he lives, that is, where he has his bed, and where he dwells", *per* Lord Reading, C.J., in *Stoke-on-Trent Borough Council v. Cheshire County Council*, [1915] 3 K.B. 699 (at p. 703) ; 19 Digest 577, 135 and see *per* Ridley, J., at p. 706—"I take it that that word . . . denotes the place where an individual eats, drinks and sleeps . . ."

81. Exemption of certain works from building byelaws, &c.—(1) No requirements or restrictions imposed by or under any enactment, as to the erection, placing or making of buildings, erections or excavations or the reconstruction of or alterations to buildings or the construction, formation or laying out of means of access to or from any road, or as to the submission of plans and specifications, or the giving of notices, to a local authority shall apply in relation to any works executed—

- (a) by a local authority under any of the powers conferred by this Act ;
- (b) by any person on advice given by the local authority in accordance with any provision of this Act specifically requiring such advice to be given ;
- (c) by any person on advice given specifically to him by a Government department, whether given before or after the passing of this Act, for the purpose of providing air-raid shelter or rendering any building less vulnerable to hostile attack ; or
- (d) by any person in pursuance of any notice under Part VI of this Act given to him by the Minister or the appropriate department. [295]

(2) The Minister may make regulations exempting from any such requirements or restrictions as aforesaid such classes of works, executed for the purpose of providing air-raid shelter, as may be specified in the regulations, not being works to which subsection (1) of this section applies.

[296]

(3) For the purposes of any enactment regulating the erection of new buildings or the extension of buildings by reference to the position of other buildings, no account shall be taken of any building, erection or excavation exempted by or under this section from the operation of that enactment. [297]

The expression "air-raid shelter" is defined by section 90 (1), *post*.

Local authority is not defined, but means where it is first used the local authority as defined

by the enactment requiring the submission of plans of the giving of notices, and elsewhere in the section the local authority for the purposes of the function concerned, as defined by the various sections of this Act.

Provisional regulations have been made under this section, entitled the Civil Defence (Exemption of Works of Shelter) Regulations, 1939, dated 18th August, P. & S.R. & O. 1939 No. 923. These were certified to come into immediate operation on account of urgency.

As to building byelaws, see P.H.A., 1936, sections 61 to 71 (29 Statutes 372).

82. Covenants to repair and reinstate not to apply to works executed under this Act.—Nothing in any covenant or agreement requiring any person to keep specified premises in, or to restore specified premises to, a particular condition shall authorise or compel any person to interfere with any works executed on those premises under this Act, or subject him to any liability if he does not do so.

[298]

83. Financial provisions.—(1) Any administrative expenses of any Government department under or attributable to this Act shall be defrayed out of moneys provided by Parliament. [299]

(2) For the purposes of section one of the Defence Loans Act, 1937, the expression "defence services" shall include any service certified by the Treasury to be a service the whole or part of the expenses of which are authorised by this Act or the Act of 1937 to be defrayed out of moneys provided by Parliament. [300]

(3) All grants payable under this Act out of moneys provided by Parliament shall be paid at such times and in such manner and subject to such conditions as to accounts, certificates and audit as the Minister, or in the case of grants made under Part VII of this Act, the Minister of Health, may, with the approval of the Treasury, determine. [301]

(4) Any such grant as aforesaid may be made subject to any other conditions so determined, and in particular subject to conditions as to the ownership of any property purchased out of the grant and as to the maintenance and disposal of any such property :

Provided that nothing in this subsection shall affect the provisions of Part II of the First Schedule to this Act. [302]

(5) Without prejudice to the special provisions of Part VII of this Act prohibiting the approval under the Act of 1937 of certain expenditure of local authorities, approval shall not be given under that Act to any expenditure of a local authority if a grant out of moneys provided by Parliament is given or might have been given to that authority under any provision of this Act in respect of that expenditure. [303]

The Minister is the Minister of Home Security (see note to section 1, *ante*), but note that for the purposes of Part VII the approving authority is the Minister of Health, not "the Minister".

For section 1 of the Defence Loans Act, 1937, see 30 Statutes 740.

84. Special provisions as to London.—Any reference in this Act to a local authority or fire authority shall, in relation to any part of the administrative county of London, be construed as a reference to such one or more of the following authorities, that is to say, the London County Council, the common council of the City, the council of any metropolitan borough, the district surveyor, and the respective overseers of the Inner Temple and the Middle Temple, as may be specified

in that behalf by an order of the Minister ; and any such order may provide, in relation to any such authority or authorities, that they shall act, in relation to particular matters, in consultation with any other such authority or authorities. [304]

An order has been made under this section, entitled the Civil Defence (London Authorities) Order, 1939, S.R. & O. 1939 No. 899.

85. Consultation with joint committees under Act of 1937.—Where, by virtue of an order made under subsection (2) of section four of the Act of 1937 the functions of a council in preparing and submitting air-raid precautions schemes or under any air-raid precautions scheme for the time being in force are, as respects the area specified in the order, exercised by a joint committee, the council shall, before exercising in that area any function under Parts II, III, IV or VIII of this Act, consult with the joint committee. [305]

86. Exercise of powers of Board of Trade.—Anything required or authorised by or under this Act to be done by, to or before the Board of Trade, may be done by, to or before the President of the Board, any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President. [306]

The Board of Trade is the appropriate department in relation to any gas undertaking (section 90 (1), *post*).

87. Saving for telegraphic lines.—Section six of the Telegraph Act, 1878 (which empowers the Postmaster-General to establish telegraphic lines on certain undertakings) shall apply to underground air-raid shelters, premises and parking places, and works connected therewith, constructed by a local authority under Part II of this Act, as it applies to the undertakings mentioned in the said section six, and section seven of the said Act (which makes provision as to work done in the execution of certain undertakings which involves alteration in telegraphic lines) shall apply to any work authorised or required to be done under this Act as it applies to work done in the execution of such an undertaking as is mentioned in the said section seven. [307]

For section 6 of the Telegraph Act, 1878, see 19 Statutes 264, and for section 7, *ibid.*, 265.

88. Provisions as to orders, regulations, &c.—(1) Any Order in Council or order made under this Act may be revoked or varied by a subsequent Order in Council or order and any notice served under Part III, Part IV or Part VI of this Act, may be withdrawn by a subsequent notice served on the same person and in the same manner. [308]

(2) Any Order in Council or regulation made under this Act, any order made under Part III of this Act (except an order relating to specified factory premises, a specified mine or a specified commercial building) or under the provisions of this Act providing for the requisition of premises and vehicles or relating to local authorities in London and any scheme made by the Treasury under this Act shall, as soon as may be after it is made, be laid before Parliament. [309]

(3) If either House of Parliament, within the period of forty days beginning with the day on which any such Order in Council, regulation, order, or scheme as aforesaid is laid before it, resolves that the Order in Council, regulation, order, or scheme be annulled, it shall thereupon become void, without prejudice, however, to the validity of anything previously done thereunder or to the making of a new Order in Council, regulation, order, or scheme.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days. [310]

(4) Section one of the Rules Publication Act, 1893, shall not apply to any Order in Council, order, or scheme made under this Act. [311]

89. Definitions of "factory", "factory premises", "mine" and "commercial building" and interpretation of references to persons working and persons employed.—(1) In this Act the expression "factory" means a factory within the meaning of section one hundred and fifty-one of the Factories Act, 1937 :

Provided that—

- (a) the said expression does not include any premises in the occupation of the Crown ;
 - (b) the said expression does not include any factory entirely situate in a building not wholly occupied by the occupier of the factory ;
 - (c) where part of a factory is situate in a building not wholly occupied by the occupier of the factory, that part shall be deemed for the purposes of this Act not to form part of the factory. [312]
- (2) Where there is a factory in which more than fifty persons work—
- (a) the factory ; and
 - (b) the remainder of any building in which the factory or any part thereof is situate ; and
 - (c) any land contiguous to the factory which is in the occupation of the occupier of the factory and any buildings on that land,
- shall together be deemed to constitute factory premises for the purposes of this Act :

Provided that—

- (a) no building wholly or mainly occupied as a hotel or restaurant (other than a restaurant carried on for the use of persons working in the factory) shall be deemed to form part of any factory premises ;
- (b) no mine shall be included in any factory premises except in accordance with the provisions of subsection (4) of this section ;
- (c) no premises which are wholly occupied by public utility undertakers for the purposes of their undertaking shall be

deemed to be factory premises for the purposes of this Act.

[313]

(3) In this Act the expression "mine" means—

- (a) a mine within the meaning of the Coal Mines Act, 1911 ; or
- (b) a mine within the meaning of the Metalliferous Mines Regulation Act, 1872 (as amended by section nineteen of the Mining Industry Act, 1920) ; or
- (c) a quarry within the meaning of the Quarries Act, 1894, as amended by section one hundred and fifty-eight of the Factories Act, 1937,

being in any case a mine or quarry in or about which more than fifty persons work, and not being a mine or quarry which by virtue of the next following subsection, forms part of factory premises. [314]

(4) Where any factory premises are contiguous to a mine and are occupied by the owner of the mine, then—

- (a) if the number of persons working in or about the mine exceeds the number of persons working in the factory comprised in the factory premises, the factory premises shall be deemed to form part of the mine for the purposes of this Act ;
- (b) if the number of persons working in the factory exceeds the number of persons working in or about the mine, the mine shall be deemed to form part of the factory premises for the purposes of this Act. [315]

(5) In this Act the expression "commercial building" means a building in which more than fifty persons work, not being—

- (a) a building wholly or mainly occupied as a school, college, university, hotel, restaurant, club, place of public entertainment or amusement, hospital or nursing home ; or
- (b) a building wholly occupied by public utility undertakers for the purposes of their undertaking :

Provided that—

- (i) no building which forms part of any factory premises or mine shall be deemed to be a commercial building ; and
- (ii) any residential part of a building (that is to say, any part which is used, or, so far as unoccupied, intended for use, for residential purposes) shall, if it is provided with a means of normal egress from the building which is not available to occupants of the non-residential part of the building, be disregarded for all the purposes of the provisions of this Act relating to commercial buildings. [316]

(6) In relation to the provisions of Part III of this Act relating to the training of employed persons, this section shall have effect as if for the words "fifty persons," wherever they occur therein, there were substituted the words "thirty persons." [317]

(7) For the purposes of this Act the number of persons who work in a factory, factory premises, or commercial building shall be taken to be the greatest number of persons who are present in the factory, factory premises or building, as the case may be, at any one time in a normal day, being persons who carry on business in the factory,

factory premises or building or are employed by persons carrying on business therein :

Provided that—

- (a) regard shall not be had to any temporary increase occasioned by a change of shifts ;
- (b) in the case of any factory, factory premises or commercial building where there are outdoor workers, regard shall not be had to more than twenty-five per cent. of their total number.

In this subsection, the expression " outdoor workers " means persons who, on a normal day, work in the factory, factory premises or commercial building, as the case may be, for not more than one hour.

[318]

(8) For the purposes of this Act, the number of persons who work in or about a mine shall be deemed to be a number ascertained as follows, that is to say—

- (a) by having regard to all the people employed in or about the mine and ascertaining how many of them are from time to time simultaneously present in or about the mine otherwise than below the surface, and
- (b) if the numbers so ascertained fluctuate, by ascertaining the highest figure below which throughout any consecutive period of fifteen minutes the numbers do not fall. [319]

(9) References in this Act to persons employed do not include references to persons employed as domestic servants or to persons otherwise employed in or for the purposes of so much of a building as is used for residential purposes :

Provided that this subsection shall not be construed as affecting the meaning of the word " employer " in the provisions of this Act relating to compensation for personal injuries. [320]

The expression " public utility undertakers " in this section is defined by section 90 (1), *post*.

For section 151 of the Factories Act, 1937, see 30 Statutes 295.

By the Coal Mines Act, 1911, section 1 :—" The mines to which this Act applies are mines of coal, mines of stratified ironstone, mines of shale, and mines of fire-clay ; and in this Act the expression ' mine ', unless the context otherwise requires, means a mine to which this Act applies ".

A mine within the meaning of section 1 of the Metalliferous Mines Regulation Act, 1872, as amended by section 19 of the Mining Industry Act, 1920 (see 12 Statutes 29, 176), is every mine of whatever description other than mines of coal, mines of stratified ironstone, mines of shale, and mines of fire-clay, but not including any part of the premises on which any manufacturing process, other than a process ancillary to the getting, dressing, or preparation for the sale of minerals, is carried on.

A quarry within the meaning of section 1 of the Quarries Act, 1894, as amended by section 158 of the Factories Act, 1937 (12 Statutes 69 ; 30 *ibid.* 302), is every place (not being a mine) in which persons work in getting slate, stone, coprolites, or other minerals, but not including any place in which any manufacturing process, other than a process ancillary to the getting, dressing, or preparation for sale of minerals, is carried on.

The definitions of " factory " and " factory premises " are of the greatest difficulty and it is suggested that they can only be understood on the assumption that the word " factory " is not used throughout in the sense in which it is defined. If " factory " for the purposes of the Act does not include a factory (*quære* in what sense the word is here used) situate in a building not wholly occupied by the occupier of the factory (the use of the word here is presumably identical with its last use) it is a little difficult to understand how there can be a building which includes (a) the factory ; and (b) the remainder of the building, unless the remainder of the building is occupied by the occupier of the factory for other purposes.

90. Other provisions as to interpretation.—(1) In this Act, except where the context otherwise requires, the following expressions

have the meanings hereby respectively assigned to them, that is to say :—

“ Air-raid shelter ” means protection, otherwise than by war-like means or by any article of apparel, from hostile attack from the air, and “ an air-raid shelter ” means any premises, structure or excavation used or intended to be used to provide air-raid shelter ;

“ Annual value ” means, in relation to any premises, the rent at which it is estimated that the premises might reasonably be expected to let from year to year if the tenant undertook to pay the usual tenant's rates and taxes and if the landlord undertook to bear the costs of the repairs and insurance and the other expenses, if any, necessary to maintain the premises in a state to command that rent, such adjustments being made as appear necessary to eliminate any appreciation due to the fact that the premises are or can be made suitable for use in the event of hostile attack and any depreciation due to the fact that the premises are likely to be required for use in that event :

Provided that, in the case of a building (including a commercial building) or block of buildings let out in parts each of which is separately valued for rating purposes or consists of two or more parts so valued, the annual value of every part so valued (except any part which has depreciated in value by reason of the execution therein under this Act of works for the provision of air-raid shelter) shall be taken for the purposes of the provisions of this Act relating to increases of rent, to be—

(a) where the rateable value and the net annual value of that part are the same, the rateable value appearing at the material date in the valuation list ;

(b) where they are different, the net annual value of that part appearing at the material date in the valuation list, and the annual value of the whole building or of any part thereof comprising a number of parts which are separately valued for rating purposes, shall be taken for the purposes of the said provisions to be the sum of all the annual values of all the parts or, as the case may be, the parts so comprised ;

“ Appropriate department ” means—

(a) in relation to any railway, canal, inland navigation, dock or harbour undertaking, the Minister of Transport ;

(b) in relation to any gas undertaking, the Board of Trade ;

(c) in relation to any electricity undertaking, the Electricity Commissioners ; and

(d) in relation to any water undertaking, the Minister of Health ;

“ Civil defence functions ” means any functions conferred or imposed by or under the Act of 1937 or this Act ;

“ Diminution in the annual value ” means, in relation to the impairment of the usefulness of any premises by reason of the

execution of works, the amount by which the annual value of the premises is less than it would be if the works had not been executed ;

- " Electricity undertakers " means undertakers within the meaning of the Electricity (Supply) Acts, 1882 to 1936 ;
- " Factory inspector " means any inspector appointed under the Factories Act, 1937 ;
- " Fire authority " means, subject to the special provisions of this Act with respect to the administrative county of London, the council of a county borough or county district ;
- " Land," in any provision of this Act relating to the acquisition of land, includes any interest in land and any easement or right in, to, or over land ;
- " Lease " includes an agreement for a lease, if the term to be covered by the lease has begun, and any tenancy, but does not include a mortgage, and the expression " lessee " shall be construed accordingly ;
- " Mines inspector " means an inspector appointed under the Coal Mines Act, 1911 ;
- " Occupier," in relation to any unoccupied land, premises, building or part of a building, means the person entitled to the possession thereof ;
- " Owner," in relation to factory premises or a commercial building, means—

(a) where there is no lease of the whole of the premises or building the unexpired term of which is ten years or more, the person in whom the fee simple of the premises or building is vested ; or

(b) where there is such a lease, the person in whom the term created by that lease is vested or, if there are two or more such leases, the person in whom is vested that one of those leases on which all the others are reversionary, and, in relation to a mine, has the same meaning as in the Coal Mines Act, 1911, the Metalliferous Mines Regulation Act, 1872, or the Quarries Act, 1894, as the case may be ;

Provided that, where the estate or interest of any person who under the preceding provisions of this definition would be the owner of any commercial building is the subject of a mortgage, and either the mortgagee is in possession or the rents and profits are being received by a receiver appointed by or on the application of the mortgagee, that estate or interest shall be deemed for the purposes of this definition to be vested in the mortgagee ;

- " Public air-raid shelter " includes a shelter provided by a local authority, in pursuance of an agreement made under Part II of this Act with the occupier of factory premises or the owner of a commercial building, for the use, in whole or in part, of persons living or working in the factory premises or commercial building ;

"Public utility undertakers" means any persons authorised by any enactment or order to construct, work or carry on any railway, canal, inland navigation, dock, harbour, gas, electricity or water undertaking, and also includes persons who, though not authorised by any enactment or order (other than the Public Health Act, 1875, or the Public Health Act, 1936) to do so, are engaged in supplying gas or water to the public, and for that purpose make use of pipes or mains laid in any highway; and "public utility undertaking" shall be construed accordingly. [321]

(2) Any premises occupied, or persons employed, by public utility undertakers who carry on a railway undertaking, shall be deemed, for the purposes of this Act, to be occupied or employed for the purposes of their railway undertaking, unless the occupation or employment is wholly or mainly for the purposes of some harbour, dock or canal undertaking carried on by those undertakers. [322]

"Air-raid shelter"; "an air-raid shelter".—Note carefully the distinction between these two whenever either is used.

"Annual value".—See the notes to section 19, *ante*. An attempt has been made here to suggest a reason for the valuation of some premises on the basis of gross value, as understood in rating law, and others on the basis of rateable or net annual value. The same difficulty, however, occurs in section 30. It seems possible that the distinction is an oversight; "separately valued" presumably means "separately assessed". The material date in relation to increases or decreases of rent appears to be the date of completion of the works.

"Appropriate department". Board of Trade.—See section 86, *ante*, as to the exercise of powers of the Board of Trade.

Electricity Commissioners.—See section 1 of the Electricity (Supply) Act, 1919 (7 Statutes 754).

"Diminution in the annual value".—The expression used in the Act is "diminution of the annual value". There is presumably a drafting error here, but the definition should be used to interpret the expression used in the Act.

"Electricity undertakers".—For the Electricity (Supply) Acts, 1882 to 1936, see 7 Statutes 686 *et seq.*, 26 *ibid.* 137, 28 *ibid.* 51, 29 *ibid.* 133. By section 25 of the Electric Lighting Act, 1909, "undertakers" means "any local authority, company, or person, authorised to supply electricity to whom the Electric Lighting Acts apply".

"Fire authority".—As to London, see section 84, *ante*.

"Mines inspector".—As to the appointment of inspectors under the Coal Mines Act, 1911, see section 97 of that Act (12 Statutes 130).

"Owner".—See the definitions of "factory premises", "commercial building" and "mine" in section 89, *ante*.

Coal Mines Act, 1911.—"Owner" is defined by section 122 (12 Statutes 139).

Metalliferous Mines Regulation Act, 1872.—"Owner" is defined by section 41 (12 Statutes 38).

Quarries Act, 1894.—By section 2 (12 Statutes 69) the definition of "owner" in the Metalliferous Mines Regulation Act, 1872, *supra*, is applied.

"Public air-raid shelter".—See definitions of "occupier" and "owner", *supra*, and of "factory premises", "commercial building" and "persons working" in section 89, *ante*.

"Public utility undertakers".—For the Public Health Acts, 1875 and 1936, see 13 Statutes 623 and 29 *ibid.* 309 respectively. Public utility undertakers are usually corporations who are persons within the definition in the Interpretation Act, 1889, section 19 (18 Statutes 1001).

91. Application to Scotland.—[323]

92. Provisions as to Northern Ireland.—[324]

93. Short title and citation.—This Act may be cited as the Civil Defence Act, 1939, and the Act of 1937 and this Act may be cited together as the Civil Defence Acts, 1937 and 1939. [325]

SCHEDULES

FIRST SCHEDULE

Section 42.

PART I

FINANCING OF CERTAIN EXPENDITURE OF CENTRAL ELECTRICITY BOARD AND DISTRIBUTION OF BURDEN THEREOF AMONG ELECTRICITY UNDERTAKERS

1. There shall be established a fund under the control of the Central Electricity Board (hereafter in this Schedule referred to as "the fund").

2. There shall be paid into the fund—

- (a) all grants paid to the Board out of moneys provided by Parliament ;
- (b) subject to the provisions of Part II of this Schedule, all sums received by the Board on the sale or disposal of plant, equipment, or property acquired by the Board under the principal section ; and
- (c) any sums received by the Board under or by virtue of the following provisions of this Part of this Schedule.

3.—(1) For the purpose of defraying any expenses in respect of which a grant is payable under the principal section out of moneys provided by Parliament, and of providing a working balance for the fund, the Central Electricity Board may, with the consent of the Electricity Commissioners and in accordance with regulations made by the Minister of Transport with the approval of the Treasury, borrow money in such manner, and subject to such provisions with respect to the repayment thereof and with respect to reborrowing for the purpose of paying off a loan previously raised, as may be prescribed by the regulations ; and the regulations may empower the Board to borrow temporarily from banks or otherwise, and may apply with or without modifications any enactment relating to borrowing by any local authority :

Provided that except with the consent of the Treasury the Board shall not have power to borrow under this paragraph, otherwise than for the purpose of paying off loans previously raised thereunder, more than the aggregate of amounts sufficient to raise one million five hundred thousand pounds.

(2) The Board shall not have power under section twenty-seven of the Electricity (Supply) Act, 1926, to borrow for any of the purposes for which they may borrow under this paragraph.

(3) The Board may, for the purpose of raising money which they are authorised to borrow under this paragraph, create and issue stock.

(4) Any stock created under this paragraph by the Board shall be issued, transferred, dealt with and redeemed in accordance with regulations made by the Minister of Transport with the approval of the Treasury ; and any such regulations may apply for the purposes of this paragraph, with or without modifications, any provisions of the Local Loans Act, 1875, or of any enactment relating to stock issued by a local authority.

(5) The principal and interest of any sums borrowed by the Board under this paragraph (including any stock and the interest thereon) shall be charged upon so much of the payments which under paragraph 5 of this Part of this Schedule the Commissioners are required to make to the Board as represents the sums required for interest and sinking fund charges.

4. There shall be paid out of the fund—

- (a) all expenses incurred by the Board in respect of which a grant is payable under the principal section out of moneys provided by Parliament ;
- (b) all other expenses incurred by the Central Electricity Board under subsection (1) of the principal section ;
- (c) all payments falling to be made by the Board in respect of the

principal and interest of any loan raised by the Board under the last preceding paragraph; and

- (d) all expenses incurred by the Board in administering the fund.
- 5.—(1) The Electricity Commissioners shall pay to the Board—
- (a) the sums required to meet the interest and sinking fund charges in respect of any loans raised by the Board under paragraph 3 of this Schedule; and
- (b) the amount of any expenses incurred by the Board under subsection (1) of the principal section (not being expenses of a capital nature) and in administering the fund, in so far as the expenses are not defrayed out of the working balance of the fund raised by borrowing,

and the payments which the Commissioners are required by this paragraph to make in any financial year shall be treated as part of their expenses but shall be shown as a separate item in their accounts and in their demand notes for contributions towards their expenses:

Provided that the apportionment of the expenses of the Commissioners by way of such payments as aforesaid shall, instead of being made in accordance with section seven of the Electricity (Supply) Act, 1922, be made on the basis of revenue received from the sale of electricity, other than electricity sold in bulk to authorised undertakers.

(2) Subsection (1) of section twenty-nine of the Electricity Supply Act, 1919 (which requires the Electricity Commissioners at the beginning of each financial year to prepare an estimate of their receipts and expenditure during the year) shall have effect as if it enabled the Commissioners, in respect of any financial year, to prepare, and submit for approval by the Minister of Transport, supplementary estimates of the expenses of the Commissioners in making such payments; and the reference in subsection (2) of that section to the estimated expenses of the Commissioners shall be construed as including a reference to the expenses shown in any such supplementary estimate as aforesaid.

6.—(1) The Central Electricity Board shall, as soon as may be after the beginning of the first accounting period, and not later than one month before the beginning of each subsequent accounting period, prepare and submit to the Electricity Commissioners, in such form as they may determine, an estimate of the payments and expenses of the Board for that accounting period which will fall to be defrayed by the Commissioners, and may subsequently prepare and submit in like manner supplementary estimates of such expenses as aforesaid, and the Commissioners may approve the estimates with or without modifications.

(2) The Board shall not incur any such expenses as aforesaid for any accounting period, except in accordance with the estimates for that period previously approved under this paragraph by the Commissioners:

Provided that the Commissioners may in special circumstances authorise the Board to incur expenses otherwise than in accordance with the said estimates.

(3) In this paragraph the expression "accounting period" means—

- (a) the period beginning with the day on which this Act is passed and ending with the thirty-first day of March nineteen hundred and forty;
- (b) the financial year ending with the thirty-first day of March nineteen hundred and forty-one or any subsequent financial year. [326]

Section 83.

PART II

DISPOSAL OF PROPERTY ACQUIRED BY CENTRAL ELECTRICITY BOARD UNDER SUBSECTION (1) OF THE PRINCIPAL SECTION

1. Any plant, equipment or other property acquired by the Central Electricity Board under subsection (1) of the principal section which in the opinion of the Board is no longer needed for the purpose for which it was acquired, or ought to be replaced, may, with the approval of the Electricity Commissioners, be sold or otherwise disposed of by the Board.

2.—(1) Where it appears to the Minister that all the plant, equipment and property acquired by the Board as aforesaid can, without prejudice to the public interest, be disposed of, he may authorise the Board to dispose of it, and the proceeds shall be applied in the following manner :—

- (a) a sum equal to one-half of the expenses of the Board incurred under subsection (1) of the principal section, other than capital expenses, and of the expenses of the Board in administering the fund shall be applied, in the manner specified in sub-paragraph (2) of this paragraph, in repaying debt ;
- (b) such sum as, together with the sum mentioned in the preceding sub-paragraph, will amount to one-half of the said proceeds shall be paid to the Electricity Commissioners and shall be paid by them into the Exchequer ;
- (c) the remainder of the said proceeds shall be applied, in the manner specified in sub-paragraph (2) of this paragraph, in repaying debt.

(2) The sums directed by sub-paragraph (1) of this paragraph to be applied in repaying debt shall be applied in repaying any amount outstanding of the moneys borrowed by the Central Electricity Board under Part I of this Schedule, and, in so far as they exceed the amount so outstanding, in repaying moneys borrowed under the Electricity (Supply) Act, 1926, for the purpose mentioned in subsection (2) of section nine of that Act. [327]

PART III

MISCELLANEOUS PROVISIONS

1. Where it is material to ascertain—

- (a) for the purposes of section seven of the Electricity (Supply) Act, 1926, the cost of production of electricity by the owners of a selected station ;
- (b) for the purposes of any such agreement as is referred to in subsection (3) or subsection (4) of the said section seven, the amount of any payment to be made by the Central Electricity Board to the owners of a selected station, or to the Board by the owners of a selected station ;
- (c) for the purposes of section thirteen of the said Act, the cost which owners of a selected station would have incurred, if that Act had not been passed, in themselves generating the like quantity of electricity to that taken from the Board ; or
- (d) for the purposes of any such agreement as is mentioned in section one of the Electricity (Supply) Act, 1935, between the Central Electricity Board and any electricity undertakers, the amount payable in respect of the operation of any generating station in pursuance of the agreement,

no account shall be taken of any expenses incurred by the Board or any other electricity undertakers in taking measures which they are or could be required to take under any provision of this Act, or of any sums paid under Part I of this Schedule by electricity undertakers to the Electricity Commissioners.

2. No account shall be taken of the transactions of the fund in estimating for the purposes of rating the net annual value of hereditaments, or the yearly rent or value of lands and heritages in Scotland, occupied by the Central Electricity Board for the purposes of their undertaking. [328]

SECOND SCHEDULE

Section 50.

MODIFICATIONS OF LANDS CLAUSES ACTS

1. The following sections of the Lands Clauses (Consolidation) Act, 1845, shall not be incorporated in this Act, namely, sections sixteen, seventeen, one

hundred and twenty-three, one hundred and twenty-seven to one hundred and thirty-three, one hundred and fifty and one hundred and fifty-one.

2. In the construction of this Act and the Lands Clauses Acts, this Act shall be deemed to be the special Act, and the Minister of Health shall be deemed to be the promoter of the undertaking.

3. At any time after notice to treat has been served, the Minister of Health may, notwithstanding anything in sections eighty-four to ninety of the Lands Clauses (Consolidation) Act, 1845, after giving not less than fourteen days', or in the case of a dwelling-house not less than twenty-eight days', notice to the owner, lessee or occupier of the land, enter on and take possession of the land specified in the notice, subject however to the payment of the like compensation and interest thereon as would have been payable under those sections.

4. Section ninety-two of the Lands Clauses (Consolidation) Act, 1845, shall not be incorporated with this Act, but no person shall be required to sell part only of any house or building, if he is willing and able to sell the whole of the house or building, unless the arbitrator determines that such part of the house or building as is proposed to be taken can be taken without material detriment to the house or building; and if the arbitrator so determines he may award compensation in respect of the severance of the part so proposed to be taken, in addition to the value of that part, and thereupon the person interested shall be required to sell to the Minister of Health that part of the house or building.

5. Where any land compulsorily acquired is land belonging to an ecclesiastical benefice, any sums agreed upon or awarded for the purchase of the land or to be paid by way of compensation for damage to be sustained by the owner by reason of severance or injury affecting the land, shall not be paid as directed by the Lands Clauses Acts but shall be paid to the Ecclesiastical Commissioners, to be applied by them as money paid to them upon a sale under the provisions of the Ecclesiastical Leasing Acts of land belonging to a benefice:

Provided that this paragraph shall not apply to any sum authorised to be deposited in the name of the Accountant-General of the Supreme Court by virtue of section seventy-six of the Lands Clauses (Consolidation) Act, 1845.

[329]

For the Lands Clauses Consolidation Act, 1845, see 2 Statutes 1113 *et seq.* and for the Ecclesiastical Leasing Acts, 1842-1858, see 6 Statutes 833, 875.

THE REGIONAL COMMISSIONERS ACT, 1939

(2 & 3 GEO. 6, c. 76)

An Act to make provision with respect to Regional Commissioners and other persons appointed for the purpose of securing the co-ordination of measures of civil defence. [380] [1st September 1939.]

1. Remuneration, and protection from parliamentary disqualification, of Regional Commissioners, &c.—(1) There may be paid out of moneys provided by Parliament—

- (a) to any person appointed by His Majesty to be a Regional Commissioner for the co-ordination of measures of civil defence,
- (b) to any person appointed by His Majesty to be a Deputy Regional Commissioner for the co-ordination of measures of civil defence,
- (c) to any person appointed by the Secretary of State to be a District Commissioner in Scotland for the co-ordination of measures of civil defence, and

(d) to any person appointed by the Secretary of State to be a Deputy District Commissioner in Scotland for the co-ordination of measures of civil defence, such salary, and such allowance for expenses, as the Treasury may determine. [381]

(2) No person to whom a salary or allowance is payable under this Act shall, by reason of his being the holder of the office or place in respect of which such a salary or allowance is payable, be rendered incapable of being elected, or of sitting or voting, as a member of the House of Commons. [382]

See, as to offices of profit under the Crown, Halsbury's Laws of England, 2nd Edn., Vol. 24, p. 224.

2. Short title and duration of Act.—(1) This Act may be cited as the Regional Commissioners Act, 1939.

(2) This Act shall continue in force until such date as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of this Act came to an end, and shall then expire except as respects things previously done or omitted to be done. [383]

DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1939, No. 927, as amended

* * * * *

100. Interpretation.—(1) In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“agricultural land” means any land used as arable, meadow or pasture ground only, land used for a plantation or a wood or for the growth of saleable underwood, land, exceeding one-quarter of an acre used for the purpose of poultry farming, market gardens, nursery grounds, orchards or allotments, including allotment gardens within the meaning of the Allotments Act, 1922, but does not include land occupied together with a house as a park or pleasure grounds or as a garden other than a market or allotment garden, or land kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a race-course ;

“aircraft” has the same meaning as in any Order in Council for the time being in force under Part I of the Air Navigation Act, 1920 ;

“ammunition” means ammunition for any firearm, and includes grenades, bombs and other like missiles, whether capable of use with a firearm or not, and prohibited ammunition within the meaning of the Firearms Act, 1937 ;

“British aircraft” means an aircraft registered in any part of His Majesty's dominions, in any British protectorate or in any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by the Government of any part of His Majesty's dominions ;

“chief officer of police” has the same meaning as in the Police Pensions Act, 1921 ;

"Dominion" means any Dominion within the meaning of the Statute of Westminster, 1931, except Newfoundland, and includes any territory administered by His Majesty's Government in a Dominion ;

"Dominion ship or aircraft" means a British ship or aircraft registered in a Dominion, not being a ship or aircraft which is for the time being placed at the disposal of, or chartered by or on behalf of, His Majesty's Government in the United Kingdom, and "Dominion ship" and "Dominion aircraft" shall be construed accordingly ;

"drainage authority" has the same meaning as in the Land Drainage Act, 1930 ;

"enemy" means the enemy in any war in which His Majesty may be engaged ;

"enemy alien" means a person who, not being either a British subject or a British protected person, possesses the nationality of a State at war with His Majesty ;

"essential services" means services essential for the defence of the realm or the prosecution of war or essential to the life of the community ;

["evacuation plan" means such a plan as is mentioned in subsection (1) of section fifty-six of the Civil Defence Act, 1939] ;

"explosive" has the same meaning as in the Explosives Act, 1875 ;

"firearm" means any lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged, and includes any prohibited weapon within the meaning of the Firearms Act, 1937, whether it is such a lethal weapon as aforesaid or not ;

"fire authority" means a fire authority within the meaning of the Fire Brigades Act, 1938, and includes the London County Council ;

"fire brigade" means any fire brigade other than one the purpose of which is to provide fire services exclusively for the person by whom it is maintained ;

"fish" includes shell-fish ;

"harbour authority" has the same meaning as in the Petroleum (Consolidation) Act, 1928 ;

"immigration officer" means an immigration officer for the purposes of the Aliens Order, 1920 ;

"land" includes (without prejudice to any of the provisions of section three of the Interpretation Act, 1889) land covered with water, and parts of houses or buildings ;

"local authority" means the Common Council of the City of London, the council of a metropolitan Borough, or the council of a county, county borough or county district ;

"offence to which this Part of these Regulations applies" means—

- (a) treason, in so far as it consists in adhering to the King's enemies, giving them aid and comfort ;
- (b) an offence of trading with the enemy ;
- (c) an offence under any of the provisions of the Official Secrets Acts, 1911 and 1920 ;
- (d) an offence against any of these Regulations ;
- (e) an offence against any Order in Council or order made under Part I or section seven of the Air Navigation Act, 1920,

as amended by the Air Navigation Act, 1936, or an offence under section twelve of the Air Navigation Act, 1920, as amended by these Regulations;

(f) an offence under the Unlawful Drilling Act, 1819;

(g) attempting or conspiring to commit, or aiding, abetting, counselling or procuring the commission of, or being accessory to, any of the offences specified in paragraphs (a) to (f) of this definition;

["port" includes any dock, harbour, pier, quay, wharf, mooring, anchorage or other similar place];

"prisoner of war" means a prisoner of war in the power of His Majesty;

"public utility undertaking" means any of the following undertakings the carrying on of which is authorised by any Act (whether public, general or local) or by any order made under, or confirmed by, an Act, that is to say:—

(a) any undertaking for the supply of electricity, gas or water;

(b) any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking;

(c) any sewerage or sewage disposal undertaking, or any undertaking for the collection or disposal of refuse;

(d) any undertaking of a drainage authority;

and includes any such undertaking as aforesaid which is carried on by a local authority;

"requisition" means, in relation to any property, take possession of the property or require the property to be placed at the disposal of the requisitioning authority;

"seaplane" includes a flying boat and any other aircraft designed to manoeuvre on the water;

"ship" and "vessel" have respectively the same meanings as in the Merchant Shipping Act, 1894;

"tenant" and "landlord" have respectively the same meanings as in the Agricultural Holdings Act, 1923;

"war" means any war in which His Majesty may be engaged;

"wireless transmitting apparatus" means apparatus for making communications by means of wireless telegraphy, wireless telephony or wireless television, and "wireless receiving apparatus" means apparatus for receiving communications or information made or given by the said means.

(2) Any reference in these Regulations to the master of a vessel or the pilot of an aircraft shall be construed as including a reference to the person for the time being in charge of the vessel or aircraft, as the case may be.

(3) Where, under any of these Regulations, any person has power to authorise other persons to act under that Regulation, the power may be exercised so as to confer the authority either on particular persons or on a specified class of persons.

(4) Any reference to the making, sending or receiving of communications which is made in any of the provisions of these Regulations relating to wireless telegraphy, wireless telephony or wireless television, shall be construed as including a reference to the giving of warning or information or, as the case may be, to the receiving of warning or information.

(5) For the avoidance of doubt it is hereby declared that nothing

in any custom of the country affects the exercise, in relation to agricultural land, of powers which by virtue of any of these Regulations are exercisable with respect to the taking of possession, or the use or disposal, of property.

(6) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations and of any orders, rules or byelaws made thereunder, as it applies to the interpretation of an Act of Parliament, and for the purposes of section thirty-eight of the said Act, these Regulations and such orders, rules and byelaws as aforesaid shall be deemed to be Acts of Parliament.

(7) Any reference in any document to these Regulations or to any of them shall, unless the contrary intention appears, be construed as a reference to these Regulations or to that Regulation, as amended by any subsequent Regulations made under the Emergency Powers (Defence) Act, 1939. [334]

Section 22 of the Allotments Act, 1922 (1 Statutes 316) provides that an allotment garden means an allotment not exceeding 40 poles wholly or mainly cultivated by the occupier for production of crops for consumption by himself or his family.

Section 32 (1) of the Firearms Act, 1937 (30 Statutes 930) provides, *inter alia*: "Prohibited ammunition" means any ammunition referred to in para. (c) of sub-s. (1) of s. 17 of this Act. That paragraph refers to "any ammunition containing, or designed or adapted to contain, any such noxious thing".

As to the exercise of powers of chief officers of police by other authorised persons, see Regulation 99 (3).

Dominion means Canada, Australia, New Zealand, South Africa and the Irish Free State. See s. 1 of the Statute of Westminster, 1931 (24 Statutes 127).

The definition of "evacuation plan" was added by Article 5 of S.R. & O., 1939, No. 1416. For s. 56 (1) of the Civil Defence Act, 1939, see p. 62, *ante*.

Section 3 of the Explosives Act, 1875 (8 Statutes 385) provides:—

"The term 'explosive' in this Act—

(1) Means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance, whether similar to those above mentioned or not, used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect; and

(2) Includes fog-signals, fireworks, fuzes, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined."

"Prohibited weapon" means any firearm so designed or adapted that, if pressure is applied to the trigger, missiles continue to be discharged until pressure is removed from the trigger or the magazine containing the missiles is empty, or any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or other thing. See ss. 17 and 32 of the Firearms Act, 1937 (30 Statutes 921 and 930).

Section 23 of the Petroleum (Consolidation) Act, 1928 (13 Statutes 1185), defines "Harbour authority" as:—

"any person or body of persons in whom are vested by or under any Act of Parliament powers and duties of improving, maintaining or managing a harbour, so, however, that where, as respects any dock within a harbour, such powers and duties are separately vested by or under any Act of Parliament in any person or body of persons, that person or body shall, as respects that dock, be the harbour authority, and the dock shall be deemed to be a separate harbour".

Section 3 of the Interpretation Act, 1889 (13 Statutes 993), provides that "land" shall include messuages, tenements and hereditaments, houses and buildings of any tenure.

The effect of this regulation is to extend this definition of "land" and not to restrict it. As to what constitutes treason, see Halsbury's (Hailsham Edition), Vol. 9, pp. 290-300 and in particular pp. 295 and 296 as to "adherence to the King's enemies".

The words "vessel" and "ship" are defined in s. 742 of the Merchant Shipping Act, 1894 (18 Statutes 411), as follows:—

"Vessel" includes any ship or boat, or any other description of vessel used in navigation.

"Ship" includes every description of vessel used in navigation not propelled by oars.

For the Interpretation Act, 1889, see 18 Statutes 992 *et seq.*

Section 38 of that Act (*ibid.*, 1005) deals with the effect of repeal in future Acts

* * * * *

CIVIL DEFENCE (TRANSFER OF FUNCTIONS) ORDER, 1939

S. R. & O., 1939, No. 862

At the Court at Buckingham Palace, the 25th day of July, 1939.

PRESENT,

The King's Most Excellent Majesty in Council

Whereas by section one of the Civil Defence Act, 1939, it is enacted that His Majesty may by Order in Council transfer all or any of the functions of the Secretary of State under the Air-Raid Precautions Act, 1937, to such other Minister of the Crown as may be specified in the Order, and that, as respects any period during which the Order is in force, references in the Air-Raid Precautions Act, 1937, to the Secretary of State shall, except as otherwise expressly provided in the Order, be construed as references to the Minister so specified :

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. All the functions of the Secretary of State under the Air-Raid Precautions Act, 1937, shall be transferred to the Lord Privy Seal.

2.—(1) This Order may be cited as the Civil Defence (Transfer of Functions) Order, 1939.

(2) This Order shall come into force forthwith.

Rupert B. Howorth. [335]

* * * * *

CIVIL DEFENCE (LONDON AUTHORITIES) ORDER, 1939

S. R. & O., 1939, No. 899

August 4, 1939

In pursuance of the powers conferred on me by section eighty-four of the Civil Defence Act, 1939, I hereby order as follows :—

1. Except where the context otherwise requires, any reference in Part II of the Act to a local authority shall—

(a) as respects any provisions therein relating to public air-raid shelters (including underground air-raid shelters) or any provisions incidental thereto, be construed, in relation to the City of London, as a reference to the common council of the City and, in relation to the metropolitan borough, as a reference to the council of that borough ; and

(b) as respects any provisions therein relating to buildings or underground premises required by a local authority for use in the event of hostile attack in carrying out any of their civil defence functions or any provisions incidental thereto, be construed, in relation to the administrative county of London, as a reference to the London County Council, the common council of the City or the council of a metropolitan borough according to whether the function is a function of the London County Council, the common council of the City or the council of a metropolitan borough.

2. Except where the context otherwise requires, any reference in Part III of the Act to a local authority shall be construed, in relation

to the city of London, as a reference to the common council of the City and, in relation to a metropolitan borough, as a reference to the council of that borough :

Provided that in section twenty-four of the Act (which section contains a saving for certain authorities) the reference to "any local authority" shall include the London County Council.

3. Except where the context otherwise requires, any reference in Part IV of the Act to a local authority shall be construed, in relation to the city of London, as a reference to the common council of the City and, in relation to a metropolitan borough, as a reference to the council of that borough and shall include, as respects any provisions relating to loans by local authorities to owners of dwelling-houses or any provisions incidental thereto, the London County Council :

Provided that—

(a) as respects the provisions in the said Part relating to the enforcement of regulations as to construction, alteration or extension of buildings made pursuant to section thirty-three of the Act, any reference to a local authority shall be construed as a reference to the London County Council ; and

(b) in the proviso to subsection (2) of section thirty-three of the Act the reference to the local authority shall be construed as a reference to the London County Council or the district surveyor.

4. Any reference in section fifty-six of the Act (which section relates to the evacuation of the civil population) to a local authority shall be construed, in relation to the administrative county of London, as a reference to the London County Council.

5. Any reference in the Act to a fire authority shall be construed, in relation to the administrative county of London, as a reference to the London County Council.

6.—(1) In this Order the "Act" means the Civil Defence Act, 1939.

(2) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

7. This Order may be cited as the Civil Defence (London Authorities) Order, 1939. [336]

* * * * *

CIVIL DEFENCE (SPECIFIED AREAS) ORDER, 1939

S. R. & O., 1939, No. 893

August 14, 1939

In pursuance of the power conferred upon me by section twelve of the Civil Defence, Act 1939, I hereby order as follows :—

1. The administrative counties, county boroughs, county districts and parishes in England and Wales and large burghs, small burghs, districts, special drainage districts and parishes in Scotland described in the second column of the Schedule hereto shall be the areas specified under section twelve above mentioned.

2. This Order may be cited as the Civil Defence (Specified Areas) Order, 1939. [337]

* * * * *

SCHEDULE

ENGLAND.

County.	Administrative County, County Borough, County District, Parish.
BEDFORDSHIRE	<i>Non-county borough :</i>
BERKSHIRE	Luton.
BUCKINGHAMSHIRE	<i>County borough :</i>
CHESHIRE	Reading.
	<i>Non-county borough :</i>
	Slough.
	<i>County boroughs :</i>
	Birkenhead :
	Stockport.
	Wallasey.
	<i>Non-county boroughs :</i>
	Bebington.
	Crewe.
	Dukinfield.
	Hyde.
	Sale.
	Stalybridge.
	<i>Urban districts :</i>
	Bredbury and Romiley.
	Cheadle and Gatley.
	Ellesmere Port.
	Runcorn.
CORNWALL	<i>Non-county borough :</i>
	Saltash.
	<i>Urban district :</i>
	Torpoint.
DERBYSHIRE	<i>County borough :</i>
	Derby :
	<i>Non-county borough :</i>
	Chesterfield.
DEVON	<i>County borough :</i>
	Plymouth.
DURHAM	<i>County boroughs :</i>
	Darlington.
	Gateshead.
	South Shields.
	Sunderland.
	West Hartlepool.
	<i>Non-county boroughs :</i>
	Durham.
	Hartlepool.
	Jarrow.
	Stockton-on-Tees.
	<i>Urban districts :</i>
	Billingham.
	Bolden.
	Blaydon.
	Chester-le-Street.
	Consett.
	Felling.
	Hebburn.
	Hetton.
	Houghton-le-Spring.
	Ryton.
	Seaham.
	Stanley.
	Washington.
	Whickham.
ESSEX	<i>County boroughs :</i>
	East Ham.
	Southend-on-Sea.
	West Ham.
	<i>Non-county boroughs :</i>
	Barking.
	Chingford.
	Dagenham.
	Harwich.
	Ilford.
	Leyton.

County.	Administrative County, County Borough, County District, Parish.
<i>ESSEX—continued.</i>	<i>Non-county boroughs—continued.</i> Romford. Walthamstow. Wanstead and Woodford. <i>Urban districts :</i> Benfleet. Billerica.ay. Brentwood. Canvey Island. Chigwell. Hornchurch. Thurrock. Waltham Holy Cross.
GLOUCESTERSHIRE	<i>County borough :</i> Bristol. <i>Urban districts :</i> Kingswood. Mangotsfield. <i>Parish :</i> Filton.
HEREFORDSHIRE	<i>Non-county borough :</i> Hereford.
HERTFORDSHIRE	<i>Non-county borough :</i> Watford. <i>Urban districts :</i> Barnet. Bushey. Cheshunt. East Barnet. <i>Rural district :</i> Barnet. <i>Parish :</i> Aldenharn.
KENT	<i>Non-county boroughs :</i> Beckenham. Bexley. Bromley. Chatham. Dartford. Dover. Erith. Gillingham. Gravesend. Margate. Queenborough. Ramsgate. Rochester. <i>Urban districts :</i> Broadstairs and St. Peters. Chislehurst and Sidcup. Crayford. Northfleet. Orpington. Penge. Sheerness. Swanscombe. <i>Rural district :</i> Dartford. <i>Parishes :</i> Frindsbury. Hoo.
LANCASHIRE	<i>County boroughs :</i> Barrow-in-Furness. Blackburn. Bolton. Bootle. Burnley. Bury. Liverpool. Manchester. Oldham. Preston. Rochdale.

County.	Large Burgh, Small Burgh, District Special, Drainage District and Parish.
<i>LANCASHIRE—continued.</i>	<p><i>County boroughs—continued.</i></p> <p>St. Helens. Salford. Warrington. Wigan.</p> <p><i>Non-county boroughs :</i></p> <p>Ashton-under-Lyne. Chorley. Crosby. Eccles. Heywood. Leigh. Middleton. Mossley. Radcliffe. Stretford. Swinton and Pendlebury. Widnes.</p> <p><i>Urban districts :</i></p> <p>Abram. Adlington. Ashton-in-Makerfield. Aspull. Atherton. Audenshaw. Billinge and Winstanley. Blackrod. Chadderton. Crompton. Denton. Droylesden. Failssworth. Farnworth. Golborne. Haydock. Hindley. Horwich. Huyton-with-Roby. Ince-in-Makerfield. Irlam. Kearsley. Lees. Litherland. Little Lever. Milnrow. Newton-in-Makerfield. Orrell. Prescot. Prestwich. Rainford. Royton. Standish-with-Langtree. Tyldesley. Urmston. Westhoughton. Whitefield. Worsley.</p> <p><i>Rural districts :</i></p> <p>Limehurst. Whiston.</p>
LEICESTERSHIRE	<i>County borough :</i> Leicester.
LINCOLNSHIRE	<i>County borough :</i> Grimsby.
	<i>Non-county boroughs :</i> Cleethorpes. Scunthorpe.
	<i>Urban district :</i> Barton-upon-Humber.
LONDON	<i>Administrative County of London.</i>
MIDDLESEX	<i>Administrative County of Middlesex.</i>

County.	Administrative County, County Borough, County District, Parish.
NORFOLK	<i>County boroughs :</i> Great Yarmouth. Norwich.
NORTHAMPTONSHIRE	<i>County borough :</i> Northampton.
	<i>Non-county borough :</i> Kettering.
	<i>Urban district :</i> Corby.
NORTHUMBERLAND	<i>County boroughs :</i> Newcastle-upon-Tyne. Tynemouth.
	<i>Non-county boroughs :</i> Blyth. Wallsend.
	<i>Urban districts :</i> Gosforth. Longbenton. Newburn. Seaton Valley. Whitley and Monkseaton.
NOTTINGHAMSHIRE	<i>County borough :</i> Nottingham.
	<i>Urban districts :</i> Arnold. Beeston and Stapleford. Carlton. Hucknall. West Bridgford.
SOMERSETSHIRE	<i>Urban district :</i> Portishead.
SOUTHAMPTON	<i>County boroughs :</i> Portsmouth. Southampton.
	<i>Non-county borough :</i> Gosport.
	<i>Urban districts :</i> Fareham. Havant and Waterloo.
	<i>Parish :</i> Millbrook.
STAFFORDSHIRE	<i>County boroughs :</i> Smethwick. Stoke-on-Trent. Walsall. West Bromwich. Wolverhampton.
	<i>Non-county boroughs :</i> Bilston. Newcastle-under-Lyme. Rowley Regis. Tipton. Wednesbury.
	<i>Urban districts :</i> Aldridge. Amblecote. Brierley Hill. Coseley. Darlaston. Sedgley. Tettenhall. Wednesfield. Willenhall.
SUFFOLK	<i>County borough :</i> Ipswich.
	<i>Non-county borough :</i> Lowestoft.
SURREY	<i>County borough :</i> Croydon.
	<i>Non-county boroughs :</i> Barnes. Beddington and Wallington. Epsom and Ewell.

County.	Administrative County, County Borough, County District, Parish.
SURREY—continued.	<p><i>Non-county boroughs—continued.</i> Kingston-on-Thames. Malden and Coombe. Mitcham. Richmond. Surbiton. Sutton and Cheam. Wimbledon.</p> <p><i>Urban districts :</i> Banstead. Carshalton. Caterham and Warlingham. Coulsdon and Purley. Esher. Merton and Morden. Walton and Weybridge.</p>
WARWICKSHIRE	<p><i>County boroughs :</i> Birmingham. Coventry.</p> <p><i>Non-county boroughs :</i> Nuneaton. Rugby. Sutton Coldfield.</p> <p><i>Urban district :</i> Bedworth.</p>
WORCESTERSHIRE	<p><i>County borough :</i> Dudley.</p> <p><i>Non-county boroughs :</i> Halesowen. Oldbury. Stourbridge.</p> <p><i>Urban district :</i> Bromsgrove.</p> <p><i>Parish :</i> Cofton Hackett.</p>
YORKSHIRE, EAST RIDING	<p><i>County borough :</i> Kingston-upon-Hu .</p> <p><i>Non-county borough :</i> Hedon.</p> <p><i>Urban district :</i> Haltemprice.</p>
YORKSHIRE, NORTH RIDING	<p><i>County boroughs :</i> Middlesbrough. York.</p> <p><i>Non-county boroughs :</i> Redcar. Thornaby-on-Tees.</p> <p><i>Urban district :</i> Eston.</p>
YORKSHIRE, WEST RIDING	<p><i>County boroughs :</i> Barnsley. Bradford. Dewsbury. Doncaster. Halifax. Huddersfield. Leeds. Rotherham. Sheffield. Wakefield.</p> <p><i>Non-county boroughs :</i> Batley. Brighouse. Morley. Ossett. Pontefract. Pudsey.</p> <p><i>Urban districts :</i> Bentley with Arksey. Castleford. Conisbrough. Cudworth. Darton.</p>

County.	Administrative County, County Borough, County District, Parish.
YORKSHIRE, WEST RIDING—continued.	<i>Urban districts—continued.</i> Dearne. Elland. Featherstone. Heckmondwike. Horbury. Horsforth. Hoyland Nether. Knottingley. Mexborough. Mirfield. Normanton. Queensbury and Shelf. Rawmarsh. Rothwell. Royston. Shipley. Sowerby Bridge. Spenborough. Stanley. Swinton. Wath-upon-Deane. Wombwell. Worsborough. <i>Parishes :</i> Brampton Bierlow. Brinsworth. Catcliffe. Ecclesfield. Warmsworth.

WALES.

County.	Administrative County, County Borough, County District, Parish.
GLAMORGANSHIRE	<i>County boroughs :</i> Cardiff. Swansea. <i>Non-county boroughs :</i> Neath. Port Talbot. <i>Urban districts :</i> Barry. Bridgend. Penarth. <i>Parish :</i> Coed-ffranc. <i>County borough :</i> Newport.
MONMOUTHSHIRE	

SCOTLAND.

County.	Large Burgh, Small Burgh, District, Special Drainage District and Parish.
ANGUS	<i>Large burgh :</i> Dundee.
DUNBARTONSHIRE	<i>Large burghs :</i> Clydebank. Dumbarton. <i>Districts :</i> Old Kilpatrick. <i>Special drainage district :</i> Vale of Leven and Renton Special Drainage District.
FIFE	<i>Large burghs :</i> Dunfermline. Kirkcaldy. <i>Small burghs :</i> Burntisland. Inverkeithing. Kinghorn.

County.	Large Burgh, Small Burgh, District, Special Drainage District and Parish.
<i>FIFE—continued.</i>	<i>Parishes :</i> Aberdour. Carnock. Dalgety. Dunfermline. Inverkeithing. Torryburn.
LARNARKSHIRE	<i>Large burghs :</i> Airdrie. Coatbridge. Glasgow. Hamilton. Motherwell and Wishaw. Rutherglen.
MIDLOTHIAN	<i>Parishes :</i> Blantyre. Bothwell. Cadder. Cambuslang. Glasgow. Old Monksland. Rutherglen.
RENFREWSHIRE	<i>Large burgh :</i> Edinburgh. <i>Large burghs :</i> Greenock. Paisley. Port Glasgow.
STIRLINGSHIRE	<i>Small burghs :</i> Gourock. Renfrew. <i>Large burgh :</i> Falkirk.
WEST LOTHIAN	<i>Small burgh :</i> Grangemouth. <i>Small burghs :</i> Bo'ness. Queensferry.

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CIVIL DEFENCE (AIR-RAID SHELTER, STANDARDS OF EXPENDITURE) REGULATIONS, 1939

P. & S. R. & O., 1939, No. 906

August 16, 1939

Whereas it is provided by section twenty-two of the Civil Defence Act, 1939 (hereinafter referred to as "the Act") that no expenses incurred by the persons therein mentioned in respect of the provision of air-raid shelter shall be deemed to be reasonable for the purpose of calculating the amount of grant payable thereunder in so far as they exceed such standard as may be prescribed by regulations of the Minister made with the consent of the Treasury unless they were incurred in circumstances so prescribed :

And whereas the like provision is made by section thirty-eight of the Act with respect to expenditure incurred by public utility undertakers in the provision of air-raid shelter :

Now I hereby certify under section two of the Rules Publication Act, 1898, that on account of urgency the following Regulations should come into immediate operation and in pursuance of the powers conferred

on me by the said sections of the Act and with the consent of the Treasury I hereby make the following Regulations to come into operation forthwith as provisional rules in England and as statutory rules in Scotland :—

1.—(1) These Regulations may be cited as the Civil Defence (Air-Raid Shelter, Standards of Expenditure) Regulations, 1939.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(3) In these Regulations the expression “ the appropriate number ” means

- (a) in the case of air-raid shelter provided by the occupier of factory premises or the owner of a mine or commercial building, the number of persons for whom that person is or may for the time being be required to provide air-raid shelter in connection with such factory premises, mine or commercial building ;
- (b) in the case of air-raid shelter provided by a person to whom subsection 2 of section twenty-two of the Act applies, the number of persons employed by him ; and
- (c) in the case of air-raid shelter provided by a public utility undertaker, the number of persons employed by them for the provision of shelter for whom measures are proposed in a report made by them under section thirty-six of the Act or are specified in a notice served on them under section thirty-seven thereof.

2.—(1) Subject to the provisions of paragraph 3 of these Regulations no expenses incurred in providing or securing the provision of air-raid shelter shall, for the purpose of determining the amount of grant payable under section twenty-two or section thirty-eight of the Act (as the case may be) be deemed to be reasonable in so far as they exceed the following standard that is to say :—

An amount ascertained by multiplying the number of persons for whom such shelter has been provided (such number being determined by reference to the requirements respecting space prescribed by the Code for the time being in force under section thirteen of the Act) by the appropriate rate :

Provided that—

if in any case that number exceeds the appropriate number the excess shall be disregarded in calculating the standard in that case, and if in any such case shelters of more than one kind have been provided the excess shall be deemed to consist of shelters to which the lesser of the two rates is appropriate.

(2) For the purpose of this paragraph the expression “ appropriate rate ” means :—

- (a) in the case of a shelter constructed in, under or abutting upon a factory or other building, the sum of £7 and
- (b) in the case of shelter constructed otherwise than as aforesaid the sum of £3. 10s.

3. Expenses incurred as aforesaid may be regarded as reasonable notwithstanding that they are in excess of the standard prescribed by paragraph 2 of these Regulations if the Minister is satisfied that they

were so incurred in one or other of the following sets of circumstances, that is to say :—

- (a) that, by reason of the existence of some special difficulty arising from or connected with the nature or structure of the building in or in connection with which the air-raid shelter is provided, or the purpose for which such building is normally used, or the site or the nature of the soil on which that building is erected or on or in which the shelter is constructed, or by reason of some difficulty of an unforeseen character encountered in the course of constructing the shelter, air-raid shelter of the approved standard and of the type provided could not reasonably have been provided for the appropriate number of persons without incurring such excess expense;
- (b) that shelter has been specially provided for the accommodation of casualties or of persons engaged in Air Raid Precautions Services, and the Minister is satisfied that in all the circumstances of the case the provision of that shelter is reasonable
- (c) that shelter affording a degree of protection substantially in excess of the requirements prescribed by the said Code has, with the prior consent in writing of the Minister, been provided, and that any conditions imposed by the Minister in giving such consent have been complied with. [339]

* * * * *

CIVIL DEFENCE (APPEALS) RULES, 1939

S. R. & O., 1939, No. 1022

August 18, 1939

In pursuance of the powers conferred upon me by subsection (1) of section seventy-five of the Civil Defence Act, 1939, I hereby make the following Rules :—

1. Any person who appeals under section three, seventeen or twenty-three of the Act to the Minister shall appeal by sending to the Minister a written notice of appeal stating generally the nature of the designation or notice appealed against and the grounds of his appeal.

2. The appellant shall, as soon as may be after appealing, give notice that he has appealed

- (a) in the case of an appeal under section three of the Act, to the local authority who have made the designation appealed against, and
- (b) in the case of an appeal under section seventeen of the Act, to the occupier of the factory premises or the owner of the commercial building who has by notice under section fifteen of the Act stated his intention to execute works under the power conferred upon him by subsection (1) of section fifteen, or, as the case may be, to the occupier of the factory premises or the owner of the commercial building upon whom a notice under subsection (1) of section sixteen of the Act has been served by a factory inspector or local authority.

3. The Minister, unless on consideration of the notice of appeal together with any further information he may have obtained from the appellant he decides to dismiss the appeal on the ground that no case for further inquiry is disclosed, shall give an opportunity of making observations thereon—

- (a) in the case of an appeal under section three of the Act, to the local authority who have made the designation ; or
- (b) in the case of an appeal under section seventeen of the Act, to the occupier of the factory premises or the owner of the commercial building who has by notice under section fifteen of the Act stated his intention to execute works under the power conferred upon him by subsection (1) of section fifteen or, as the case may be, to the factory inspector, mines inspector or local authority by whom the notice under subsection (1) of section sixteen of the Act has been served ; or
- (c) in the case of an appeal under section twenty-three of the Act, to the factory inspector, mines inspector or local authority by whom the notice has been served.

4. The Minister may, if he thinks fit, before deciding the appeal, appoint some person or persons to hold an inquiry and report to him.

5.—(1) A person appointed under Rule 4 hereof may take evidence on oath and may for that purpose administer oaths, and may by summons require any person to attend at such time and place as is set forth in the summons to give evidence or to produce any documents in his custody or under his control which relate to the matters raised by the appeal :

Provided that no person shall be required, in obedience to such a summons, to attend or to produce documents unless the necessary expenses of such attendance and production, if any, are paid or tendered to him.

(2) Every person who refuses or wilfully neglects to attend in obedience to a summons issued under this Rule or to give evidence or refuses to produce any document which he may be required to produce by summons under this Rule for the purposes of any appeal to which these Rules relate, shall be liable on summary conviction to a fine not exceeding twenty pounds.

6.—(1) Where any inquiry is held under Rule 4 thereof, the costs incurred by the Minister in relation to that inquiry (including such reasonable sum not exceeding five guineas a day as he may determine for the services of any person appointed under Rule 4 hereof) shall, if the Minister thinks fit so to direct, be paid by such party to the inquiry as the Minister may direct and the Minister may certify the amount of the costs so incurred and any amount so certified and directed by the Minister to be paid by any person shall be recoverable from that person either as a debt to the Crown or by the Minister summarily as a civil debt.

(2) The Minister may, if he thinks fit, make orders as to the costs of the parties at any such inquiry and as to the parties by whom such costs shall be paid, and every such order may be made a rule of the High Court on the application of any party named in the order.

7.—(1) In these Rules—

“ The Act ” means the Civil Defence Act, 1939 ;

“ The Minister ” means the Lord Privy Seal.

(2) The Interpretation Act, 1889, applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

8. These Rules may be cited as the Civil Defence (Appeals) Rules, 1939. [340]

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CIVIL DEFENCE (EXEMPTION OF WORKS OF SHELTER) REGULATIONS, 1939

P. & S. R. & O., 1939, No. 923

August 18, 1939

I hereby certify under section two of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into immediate operation and in exercise of the powers conferred upon me by subsection (2) of section eighty-one of the Civil Defence Act, 1939, I hereby make the following Regulations to come into operation forthwith as provisional rules in England and as statutory rules in Scotland.

1. Where measures are taken or are proposed to be taken to provide air-raid shelter in accordance with a report made under section fourteen or section thirty-six or in pursuance of a notice given under section sixteen or section thirty-seven or where air-raid shelter is provided or secured in accordance with subsection (2) of section twenty-two of the Act, no requirements or restrictions imposed by or under any enactment, as to the erection, placing or making of buildings, erections or excavations or the reconstruction of or alterations to buildings or the construction, formation or laying out of means of access to or from any road, or as to the submission of plans and specifications, or the giving of notices, to a local authority shall apply in relation to works executed for the purpose of so providing or securing such shelter.

2.—(1) In these Regulations—

“ The Act ” means the Civil Defence Act, 1939.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

3. These Regulations may be cited as the Civil Defence (Exemption of Works of Shelter) Regulations, 1939. [341]

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A.R.P. DEPARTMENT CIRCULAR No. 60/1939

March 27, 1939

EARMARKING OF GOODS VEHICLES

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to the circular from this Department of the 20th September last (700,247/42) on the subject of earmarking of vehicles for the air raid precautions services, and to say that it has now been decided that arrangements made for earmarking of goods vehicles, whether already provisionally made or not, for the A.R.P. services, including Fire and Ambulance Services, must be notified to the appropriate Chairman of Traffic Commissioners by the local authority concerned, and that no earmarking will be valid without the agreement of the Chairman. Provided, however, that reservations already made for A.R.P. purposes do not conflict with para. 4 below, and that the same vehicle is not found to have been reserved by more than one authority, there is no intention that existing reservations should be disturbed, unless they are of a nature likely to interfere with the essential transport requirements of the area. In order to guard against overlapping it is essential that all reservations of vehicles, including any already made provisionally, should be agreed by the Chairman of Traffic Commissioners. It should be understood that the obligation to find the vehicles which it is proposed provisionally to reserve still rests with the local authority and that the aid of the Chairman of Traffic Commissioners in suggesting vehicle owners who should be approached should be invoked only where the local authority's own efforts to find vehicles have been unsuccessful.

2. I am accordingly to forward herewith copies of Forms Z/V/CD and Z/V/DC (Supp.) for use for the purpose of applying to the Chairman of Traffic Commissioners for goods vehicles to be used for emergency services, and for notifying to him particulars of goods vehicles already reserved provisionally for such services. (See note at end.)

3. The form, which is a composite one covering all local emergency services, should be completed at the earliest possible date by each authority in respect of the service or services for which it is responsible. In the case of those boroughs and large burghs who are scheme-making authorities the form should cover all services, including fire services. Elsewhere, the requirements of the emergency fire services should be dealt with by the fire precautions scheme-making authorities (including a Rural District Council which is preparing such a scheme); the County Council should itself submit the form in respect of the A.R.P. Ambulance Service. For services other than Fire and Ambulance Services it will be for the County Council to determine whether the forms are to be sent in from County headquarters or whether, in the case of specified services, the forms should be submitted direct by county districts of small burghs. In the latter event the County should instruct each county district or small burgh precisely for what services, and for what numbers of vehicles, it is to submit forms.

4. The following vehicles must not be reserved for any of the emergency services coming under the control of a local authority :—

(a) Goods vehicles of British manufacture—

- (1) Under 6 ton load registered within the last two years.
- (2) Over 6 ton load registered within the last three years.

- (b) Goods vehicles which are Government property.
- (c) Goods vehicles normally used wholly or mainly for the conveyance of raw materials for food manufacture, for the bulk or wholesale distribution of food stuffs, and for the retail distribution of essential food.
- (d) Goods vehicles owned by police or by a local authority (except by the local authority itself for its own schemes).
- (e) Goods vehicles owned by a railway, gas, electricity or water undertaking; a port authority; the British Broadcasting Corporation.
- (f) Goods vehicles specially fitted for the carrying of petrol and other petroleum products.

In case of doubt as to whether a vehicle falls into any of the above categories, the Chairman of Traffic Commissioners may be consulted.

5. It is important that commercial vehicles should not be called upon by local authorities in cases where private cars will serve.

6. On receipt of the form, the Chairman of Traffic Commissioners will examine the provisional reservations already made and, if he approves them, will record them in his register. As regards any requirements which he is unable to approve, and as regards any requirements for which provisional reservations have not yet been made, he will suggest the names of owners of vehicles who should be approached by the local authority. The local authority should then proceed to negotiate direct with a view to a voluntary agreement with the owners named, and should ultimately notify to the Chairman of Traffic Commissioners the reservations which have been made as a result of such negotiations. If the owner of a vehicle is unwilling to agree to make it available for use in the event of an emergency, but it is nevertheless desired to reserve it, the facts should be reported to the Chairman, so that, if necessary, he may arrange for the exercise of requisitioning powers if and when occasion arises.

7. When reservations have been approved by the Chairman of the Traffic Commissioners, and have been agreed with the owners of the vehicles, it will be for the local authority concerned to see that the list of vehicles reserved for any particular service is kept up-to-date. If it comes to the notice of the Chairman of Traffic Commissioners that a vehicle reserved by a local authority has either gone out of use or has been transferred out of the area, he will so inform them, but they should not rely upon receiving information from this source. It will rest with the local authority concerned to verify by enquiries from time to time that the vehicles on which they propose to rely are in fact available and in serviceable condition.

8. It should be noted that :—

- (a) The above arrangements do not apply to vehicles which may be required for police purposes. A separate communication on this subject is being sent to Chief Constables.
- (b) The Chairman of Traffic Commissioners will deal with this matter in their present areas irrespective of the boundaries of the Civil Regions for emergency purposes.

9. The procedure referred to in this Circular is that which is alluded to, as regards the emergency Ambulance Service, in para. 21 of Circular 1764 issued by the Ministry of Health on 10th January, 1939, and in para. 25 of the Circular D.P. No. 10 issued by the Department of Health for Scotland on 19th January, 1939.

10. The present Circular supersedes the interim arrangements set out in the Home Office Circular of 20th September, 1938, more particularly as respects paras. 5, 6 and 7 of that Circular, which are cancelled.

I am, Sir, etc.

[342]

A.R.P. DEPARTMENT CIRCULAR No. 62/1939

March 25, 1939

RESPONSIBILITY OF REGIONAL OFFICERS

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to para. 3 of the circular No. 9/1939 of the 26th January regarding the arrangements to be made for reducing the need for reference on a number of subjects to the Central Department, and to the circular No. 20/1939 of the 2nd February regarding the new regional organisation and the substitution of Regional Officers for the former Regional Inspectors.

The Regional Officers named in the circular L.P.S. 48/2 of the 21st instant have now taken up their duties at the addresses notified in that circular and with the object of expediting and simplifying the process of securing by scheme-making authorities approval of their proposals, certain powers of approval on behalf of this Department have now been delegated to those officers.

This devolution of authority to Regional Officers does not at present cover all matters arising in connection with an air raid general precautions scheme, and for administrative reasons during the initial stages of the introduction of devolution, it is proposed that for the present official communications should continue to be sent to this Department. In the case of Scottish authorities communications should be addressed to 25, Palmerston Place, Edinburgh. Those matters which it will be within the province of the Regional Officer to determine will be transferred to him by the Department and the reply will be sent to the authority by him.

With a view to facilitating this procedure it would be of great assistance if in future all correspondence relating to general precaution schemes (other than that addressed to the Director of Supply) were sent in *duplicate* and the Lord Privy Seal would ask that this should be done. He would also ask that so far as possible separate letters may be sent on separate subjects. It will not, however, be necessary for plans or lengthy enclosures to be in duplicate, though in the case of enclosures which entail original typing or printing by the authority the Lord Privy Seal would be grateful if duplicate copies were enclosed.

Regional Officers will not be in a position to approve proposals by

a local authority which is not authorised to prepare a separate scheme unless these proposals are in accordance with the general framework of the County scheme and County approval has been obtained where required.

While official communications should for the time being continue to be addressed to this Department, Regional Officers will be available for personal consultation locally as hitherto.

I am, Sir, etc.

[343]

A.R.P. DEPARTMENT CIRCULAR No. 57/1939

March 21, 1939

A.R.P. CONTROLLERS

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to say that he has had under consideration the method of control of Civil Defence Services which should be adopted in the event of war. The arrangements proposed in this connection so far as the powers of the Central Government are concerned were set out in his circular letter of the 2nd February, 1939, relating to the creation of a Regional organisation and he now wishes to place before Local Authorities certain suggestions intended to facilitate the adaptation of their machinery to war-time conditions. Nothing in this letter is intended to affect peace-time arrangements.

2. By the regulations made under the Air Raid Precautions Act, 1937, Local Authorities are required to provide for the co-ordination and control of their air raid precautions services in time of war; and it will accordingly be necessary, as was indicated in the circular letter of the 28th March, 1938, for Local Authorities to include in their schemes proposals directed to this end.

3. The Government are confident that Local Government Authorities can provide a machinery with the elasticity necessary to secure immediate action in an emergency. The first essential is that the Government, either directly or through the Regional Commissioner, should be in a position to send at any time of day or night information, guidance and, when necessary, instructions to some one person who is empowered to take immediate executive action as regards any aspect of air raid precautions in the area for which he is responsible.

4. The necessary adjustments in the ordinary peace-time machinery of Local Government to meet the circumstances of a national emergency would appear to be :—

- (1) the appointment of an Air Raid Precautions Controller for the area of each authority responsible for the preparation of a general air raid precautions scheme. The Controller would in the event of an emergency, with any deputies or sub-controllers appointed to assist him, give any major executive decisions which fell to be taken in the operation of the various air raid precautions services. The person designated as A.R.P. Controller should be selected on personal grounds as being likely to inspire confidence by his powers of leadership under conditions of severe strain and as capable of ensuring

harmonious co-operation of all persons concerned in civil defence. The selection will rest with the authority, who might choose either one of their chief officers or the chief officer of police or some other person for the purpose. Where air raid precautions organiser has been appointed he will normally serve on the staff of the Controller.

- (2) the appointment of an Emergency Committee which would be associated with the Controller and to which would be given wide powers in time of war to act on behalf of the Council in matters of civil defence. The Committee should preferably consist of not more than three members of the Council. It would be kept fully informed by the Air Raid Precautions Controller of all communications received from higher authority. Instructions which were not of such urgency as to call for immediate action would be reported to the Committee prior to execution, and those necessitating immediate action would be communicated after such action had been taken.

5. The Lord Privy Seal suggests that each scheme-making authority should appoint an A.R.P. Controller and an Emergency Committee without delay. It is suggested that the resolution should indicate that the appointments would take effect from such time as the Lord Privy Seal may formally direct that the public interest requires that this emergency machinery should be put into operation. The name of the official selected as A.R.P. Controller and the address of his office should forthwith be forwarded to the Department.

6. County Councils should investigate at an early date, in consultation with the Authorities within their area which are not general scheme-making authorities, the question whether any sub-controllers will be required, which services they should control and whether these authorities should appoint Emergency Committees. This step should not, however, operate to delay the taking of immediate action by the County Council as to the appointment of their own A.R.P. Controller and Emergency Committee.

I am, Sir, etc.

[344]

Specification of Materials and Fittings to be used in the Erection of New and Adaptation of Existing Buildings for Cleansing Stations for A.R.P. Personnel

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Para. No.

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Details and prices of heating and hot water installation.

GENERAL NOTES

1. New buildings for the cleansing of A.R.P. Personnel, if not required for training purposes should have some peace-time use such as for the storage of equipment or for civilian respirator storage and assembly.

2. When local authorities are contemplating the erection of any new building at a place which might be used as a depot for A.R.P. services, they should consider the possibility of its being put in part or whole to some A.R.P. use in time of war.

3. The adaptation of existing buildings for war-time use is dealt with at the end of the specification.

4. The adaptation of existing buildings not required for local authorities'

purposes in peace-time should have a peace-time A.R.P. purpose, viz., training, storage of equipment, storage of civilian respirators, etc.

5. All unit prices quoted are based upon London rates and are considered fair approximate figures.

NEW BUILDINGS

WALLS

6. All external walls (except those to air locks) should be built in local stocks or flettons, 13½-ins. thick if solid, or 15½-ins. if hollow. Those to air locks may be 9-ins. thick. They should be built in cement mortar and finished fair face externally. Concrete external walls 12-ins. thick may be used in lieu of brickwork, in localities where concrete *in situ* is as cheap as brickwork.

FLOORS

7. The height from the floor to underside of concrete flat is to be 8-ft. 6-ins. The floor should be of ordinary cement concrete (1-6) finished with cement and sand (1-3) paving ¾-in. thick finish with a wood float, treated with silicate of soda solution whilst green and at intervals of six months in peace-time and at more frequent intervals in war-time. The floors over the whole area of the Undressing Room and Showers should be laid to fall to a common gulley fixed in a convenient position on the dirty side of the shower battery, the water being conducted to it by means of dished channels in the concrete floor.

Price : 6s. 6d. per yard super.

FLAT ROOFS

8. The roofs are to be of concrete (1-2-4), 5-ins. thick reinforced in the normal manner. They should be laid to falls and covered with a bituminous composition roofing such as built-up roofing felt.

Price : 15s. 9d. per yard super complete including form-work, reinforcement and roof covering (but excluding steel or concrete beams).

RAINWATER DISPOSAL

9. When rain water gutters and down pipes are used they should be of asbestos, but the possibility of their total omission should be considered.

Price : 4-in. half round eaves gutter, 1s. 3d. per foot run fixed ; 3-in. diameter pipe, 1s. 9d. per foot run fixed.

A 6-in. overhang of the flat concrete roof with a suitable drip under may be considered sufficient to meet the case.

INTERNAL PARTITIONS

10. All partitions except to stores and where otherwise shown on the plans are to be 6-ft. 6-ins. high composed of 26 gauge plain galvanised iron sheets on 1½-in. angle iron framing. The sheets to be fixed vertically and kept 6-ins. clear from the floor.

Price : 6s. 6d. per foot run.

The partitions around Stores are to be carried to the full height of the building. An alternative form of partition may consist of ¾-in. diameter galvanised iron tubing in posts with welded base plates and flange plates to take horizontal top and bottom members, and with black oil dressed both sides tarpaulin sheets suspended on the framing.

Price : 6s. 6d. per foot run.

INTERNAL FINISHINGS

11. All walls including air locks should be rendered in cement and sand (1-3) ½-in. thick, trowelled to a smooth and even surface and treated with a solution of silicate of soda whilst green. The rendering should be finished to

a height of 6-ft. 6-ins. from the floor with a covered skirting at the bottom to facilitate cleaning. The walls above the rendering to be flush pointed and treated with cement slurry.

Price : 2s. per foot run for total height of wall for cement dado, skirting and cement wash on walls over.

The soffits of concrete slabs should be left from the formwork and coated with cement slurry.

WINDOWS

12. Standard metal windows 2-ft. high, any desirable length, fixed direct to walls should be used. They should be fixed tight up to the underside of the flat roof giving a sill height of 6-ft. 6-ins. from the floor. They should be glazed with 26 ounce sheet glass (O.G.Q.) and have one opening light.

Price : 2s. 11d. per foot super fixed, glazed and painted complete.

The window sills should be local bricks set on edge or plain roof tiles set sloping.

DOORS GENERALLY

13. Doors are not necessary between undressing, washing and dressing rooms.

Doors in galvanised iron partitions should be $\frac{1}{2}$ -in. plywood, completely covered with 26 gauge galvanised iron sheeting, all joints and seams being sealed, and fixed direct to angle iron framing of the partition, the butts being fixed with set screws to the angle iron. The flange of angle iron should be perforated to form striking plate for bolt.

Price : £2 15s. fixed complete.

Internal and external doors to air locks should be 2-in. deal solid doors completely covered with 26 gauge galvanised iron sheeting, the joints and seams being sealed, and hung with butts set screwed to 2-in. by 2-in. galvanised angle iron framing surrounding the doors. The angle iron frame should have lugs rivetted on and built into the brickwork. The closing handles should be designed to tighten the doors against the frames when closed. The doors should have a Portland Cement concrete threshold 6-ins. high or the brickwork raised 6-ins. above the floor level and covered with Portland Cement paving. The doors should be fitted with felt gaskets so that it has a gas-tight seating for the whole of its perimeter. Both internal and external doors should open away from the air lock.

Price : £6 15s. per door fixed complete.

OPEN SHEDS

14. Open sheds should be of the simplest form of construction with a roof of corrugated asbestos sheeting carried on 5-in. by 5-in. soft wood posts dowelled at foot to concrete stools. No ceiling is required and the sides should be left open. The concrete floor of shed should be finished as described in para. 7 and the walls should be rendered in cement and sand as described in para. 11.

SERVICES

WATER STORAGE TANK

15. The size of the water storage tanks are shown on the type plans and are as follows :—

- (a) Cleansing Station for 180 personnel, two 500 gal. tanks connected together.
- (b) " " " 120 personnel, two 300 gal. tanks connected together.
- (c) " " " 90 personnel, one 500 gal. tank.
- (d) " " " 60 personnel, one 300 gal. tank.
- (e) " " " 36 personnel, one 200 gal. tank.

These tanks should be elevated 2-ft. 6-ins. from the top of the concrete flat and enclosed by brick walls 13½-ins. thick,

COLD WATER SERVICES

16. These should be carried out in the most economical system, all fittings being of gunmetal or brass whichever at the time is cheaper. All exposed ironwork internally to be galvanised. In addition to the water points shown on the plan provision should be made for a hose connection fixed in a convenient position for hosing down and decontaminating the whole premises. It would be advisable to make this connection direct from the main.

SANITARY FITTINGS

17. (a) *Showers*.—These should be of the required number shown on the drawings and consist of a 5-in. galvanised perforated rose controlled by a chain pull with automatic cut off, to operate as soon as chain is released. Price per shower unit, consisting of galvanised ceiling flange, tee, and drop pipe, brass non-concussive valve, chain pull, 5-in. brass shower, rose p.c., 28s. 6d. each. The rose should be fixed at a height of 7-ft. 3-ins. from the floor and supplied by water in the following manner. Pipes are taken from the cold and hot water services and pass through a thermostatic valve, fixed at the cylinder to control the supply at the shower at a given temperature. The supply should be designed to allow $3\frac{1}{2}$ –4 gallons per man of warm water at a temperature of 100°F. on the presumption that the total personnel for whom the station is designed will pass through the washing room in one hour.

The provision of curtains or divisions between the showers is not necessary except as in the 36 personnel station where a partition or curtain should divide the wet from the rinse showers. Where there is danger of splashing from the showers on to persons who are drying, a curtain or partition may be provided.

(b) *W.C. Suites*.—These should not exceed £3 each fixed complete including connection to drain but not including services.

(c) *Urinals*.—These should be of the wall bracket type with trap discharging into drain and should not cost more than £4 10s. each fixed complete with flushing cistern, waste and connection to drain.

HEATING AND DOMESTIC HOT WATER SUPPLY

(See the Appendix to this specification)

18. The heating should be by low pressure hot water ; sufficient radiators or injectors being fixed to maintain a temperature of 60° throughout the building. The prices given in the appendix include for the provision and fixing of all necessary radiators or injectors, boilers, cylinders, etc., and are exclusive of builders' and plumbers' work.

ELECTRIC LIGHTING

19. Electric lighting should be carried out in lead covered or "cab tyre" wiring (conduit is not advisable owing to danger of condensation).

Price : Between 17s. 6d. and 20s. per point exclusive of lamps, fittings, etc.

DRAINAGE

20. The most economical form of drainage is to be installed. Channel dishings in the floors should be introduced where more economical.

FITTINGS GENERALLY

UNDRESSING ROOM

21. The only fittings required in this room are latrine buckets and a form or forms covered with loose American cloth. The price of the form should not exceed 2s. 5d. per foot run.

SHOWER ROOM

22. Eye-douches may be metal or glass water containers of simple design for hanging on wall and fitted with a length of rubber tubing, eye irrigation glass or nozzle and wire clip stop cock. These should not cost more than 5s. to 10s. each.

A rack of shelves to hold clean towels sufficient for the number of persons using the station ; inexpensive soap trays and a dustbin for dirty towels should be provided in convenient positions.

DRESSING ROOM

23. This room should be fitted with :—

- (a) hat and coat rails or lockers ;
- (b) seats ;
- (c) protective clothing racks ;
- (d) respirator shelves (if lockers are not provided).

(a) Hat and coat pegs are fixed at 9-in. centres to 1½-in. diameter stove enamelled tubing, and are provided with ivorine numbers to each hook. These hat and coat hooks are for the accommodation of civilian clothing. Underneath the hooks and at a height of 2-ft. from the floor is fixed a further rail to which will be secured, by means of "S" hooks, stout paper bags to receive underclothing, socks, collar, tie, etc. These paper bags will normally hold the service underclothing and hood (the gloves being hung with the protective clothing and the respirators kept on separate shelves).

The cost of the hat and coat rail should not exceed 8s. per hook fixed complete.

If preferred, lockers may be provided instead of hat and coat pegs. These can be the usual type 12-in. by 12-in. by 72-in. fitted with lock, one shelf, umbrella rack and three coat pegs and a mackintosh hook. Their cost should not exceed 23s. each. In these lockers will normally be kept a respirator, suit of underclothing, hood and gloves and when on duty the civilian clothing and personal effects of the personnel.

NOTE.—In the event of hat and coat hooks being provided in lieu of lockers provision should be made for a small cupboard under the charge of the Attendant or Undresser for the safe custody of private effects of the personnel.

It should be noted that a considerable initial saving can be effected if the hat and coat peg method is adopted ; the saving being approximately £2 per man.

(b) The seats will be as described in para. 21, but 1-ft. 7-ins. high to enable the protective boots to be kept under them, if desired.

The price should not exceed 2s. 6d. per foot run.

(c) Protective clothing racks should provide accommodation for the total personnel, namely, two suits for each person. The rack should be of tubular iron construction and twice stove enamelled. They should be constructed as shown on the drawing, three suits being accommodated to each foot of length.

The cost should not exceed 7s. 3d. per foot run for single sided and 13s. 6d. per foot run for double sided racking delivered to site.

(d) *Respirator shelves*.—Each service respirator will require two shelves, the upper for the mask and the lower for the container. These shelves are 6-ins. wide and a space of 7½-ins. should be provided for each respirator. The upper shelf should have a semi-circular slot cut in the outer edge 2-ins. in diameter to take a flexible tube. The cost of this shelving fixed on brackets, plugged to walls, should not exceed 1s. 6d. per respirator.

When lockers are supplied for the dressing room, the respirators are kept in them but if hat and coat pegs are provided sufficient respirator shelving must be fixed to take all the respirators and possible spares.

EXISTING BUILDINGS

GENERAL NOTES

24. The following is a description of work and materials to be used in conversion of existing buildings into Cleansing Stations for A.R.P. personnel.

25. This description should be read in conjunction with the foregoing paragraph on new buildings but, in conversions, improvisations should be more freely adopted in lieu of works of more permanent and expensive nature.

26. In many instances the buildings retain their peace-time use and will only be completely converted in the emergency. In order to enable this to be done in the least possible time and with the smallest amount of skilled labour, it is necessary that a great deal of the work should be done at once, but this work should not interfere with the peace-time use of the building.

27. This specification, therefore, will describe :—

- (a) work to be done at once ;
- (b) work to be done in emergency.

STRUCTURAL WORKS

FORMING DOORS OR OPENINGS IN EXISTING WALLS

28. When it is necessary to break openings in existing walls, this should be done at once. If the openings interfere with the peace-time use of the buildings, doors can be fitted and kept locked or the openings can be boarded in, or bricked up again with a straight joint to facilitate re-formation of the opening in the emergency. It may be more desirable to use existing corridors or passageways to gain access to adjoining rooms providing the efficient organisation of the station is not impaired.

DIVISION OF ROOMS

29. Where partitions have to be formed in existing rooms they may be erected with the following materials :—

- (a) galvanised iron as previously described in first part of para. 10 ;
- (b) black oil dressed tarpaulin screens as previously described in second part of para. 10 ;
- (c) black waterproofed oilskin curtains ;
- (d) barriers.

(a) When partitions are used, they should now be fitted in sections in their positions, numbered, taken down and removed to store. A key plan of sections should be prepared to facilitate subsequent re-erection.

(b) Black oil dressed tarpaulins can be stretched on and secured to wood frames. These will have feet to raise the fabric 6-ins. off the floor and to make the screens stable. This method has the advantage of rendering the screen easily movable to give a room added area if its use in war makes this necessary and such screens are quickly placed in position. They should be 6-ft. 6-ins. high from the floor. The frames could be placed in store and the fabric fastened to them when the occasion arose. Alternatively, the screen may be as described in the second part of para. 10.

(c) Oilskin curtains can be secured to wires fastened to walls and similarly supported from the ceilings. The usefulness of oiled curtains or tarpaulins lies in the fact that they are readily removable for cleansing and decontamination.

It would be necessary to build in the fixings now and store the necessary wires and curtains.

OPEN SHED OR ROOM FOR THE REMOVAL OF OUTER CONTAMINATED CLOTHING

30. (a) In some instances it may be desirable to use an existing room for this purpose, in which case no work is required to be done now, but when the emergency arises, all window sashes and doors should be removed or if there is no time for this the glass can be smashed out.

(b) If the existing floor is of cement or tiles, there is no need for any special floor covering, but should it be of wood it will be necessary to lay an oil-dressed tarpaulin sheet, zinc or similar covering when the occasion arises. Should the floor be of cement or tiles, it will be desirable to give it a dressing of silicate of soda.

Provision should be made now for suitable floor drainage, for hosing down purposes. This may be by a hole made in the external wall, to allow water to discharge over an external gully or channel.

(c) If the layout of the post demands an open shed to be built in emergency, the floors may be as para. 7, but if the ground is suitably hard, such as gravel, tarmac, etc., an oil-dressed tarpaulin can be used instead of going to the expense of laying a concrete floor. If possible, the shed should be erected now.

AIRLOCKS

31. Airlocks planned within the building are more economical and more quickly fixed. The various materials should be now built up in position in sections and removed to storage :—

- (a) If the airlocks are to be fixed outside the building, they should be framed out of 4 in. by 2 in. studs covered externally with corrugated iron, felt or rubberoid, and internally with a building board. Match-boarding covered with stout paper can be used instead of building boards if desired.
- (b) If the airlocks are within the building, they should be similarly framed but covered one side only with matchboard and paper or building-board.
- (c) The door should be as laid down in para. 13.

UNDRESSING ROOMS

32. If the existing floor of the room to be used as the undressing room is of wood, it is advisable to lay linoleum, 12 gauge zinc or 4 lb. lead dressed up the walls and with an outlet similar to that described in para. 33.

The relative costs laid complete are :—

Linoleum	5s. 0d. yard square.
12 gauge zinc	5s. 0d. „
4 lb. lead	10s. 6d. „

SHOWERS

33. The method adopted for bringing in the water supplies should be similar to that described for new buildings, save that the spray roses and pipes leading from the supply need not be fixed now but should be cut to the required lengths and be stored for easy fixing.

If the floor under the showers is of wood construction, a strip of 4 lb. lead or 16 gauge zinc should be laid across the room (the width of the strip depending on the projection of the showers). Three of the edges should be turned up as a skirting against the walls and the fourth edge dressed over a wood roll fixed to the floor. An outlet can be formed through the lead skirting with a screwed union to connect to a waste pipe leading through the wall and discharging over an open channel or gulley. The waste should be fixed now and provided with an hinged back flap on its outer end and a screwed stop end on the room side.

An alternative method of protecting a wood floor is to provide a black oil dressed heavy tarpaulin bath 6-ins. deep fitted with plates and hose connection in one corner for drainage, to which will be attached a length of rubber tubing to discharge over an existing gulley. The rim of the bath will be fitted with galvanised iron wire hooks to clip over the bottom rail of the partition on each side of the bath and over connecting bars fixed between these partitions to the front and back of the bath. The cost of this bath for a four shower battery is approximately £2 12s. and for a six shower battery approximately £3 6s.

NOTE.—Where tarpaulins are used and stored for emergency use, they should be taken out of store periodically and dressed with linseed oil, in order to preserve them.

Where the showers abut upon or are near to an existing wall, this should be covered with an oil dressed tarpaulin or with 16 gauge zinc sheets to a height of 6-ft. 6-ins. and provision made now for its later fixing.

W.C.'s

34. It is usually possible to use those which exist but where new are to be provided they should not cost more than £3 complete with flush tank; chemical closets can be installed where water closets are not convenient. These should not cost more than £3 each, including rough timber screen and canvas framing.

WASHING DOWN POINT

35. Some provision must be made in or near the undressing room for a water point with hose connection for the purposes of flushing down the room. An outlet for this water must be improvised, in a manner similar to that described in para. 33 or some similar method.

APPENDIX

HEATING AND HOT WATER SYSTEM

THE SYSTEM HEREIN DESCRIBED IS GIVEN AS A SUGGESTION ONLY AND IT IS LEFT TO LOCAL AUTHORITIES TO ADOPT THEIR OWN METHOD PROVIDED IT IS AS EFFICIENT AND ECONOMICAL

Details and Prices for the installation of Heating and Domestic Hot Water Services in Cleansing Stations for A.R.P. Personnel

System.—The system comprises a coke or gas fired hot water heating boiler coupled to an indirectly heated hot water storage cylinder for domestic purposes and to an overhead heating unit for warming the building.

The hot water supply from the cylinder is controlled by a special thermostatic valve connected to a suitable injector fitting to which the cold water from the cold storage tank will also connect. From the outlet of the injector the mixed hot and cold water is taken to the fittings. A thermostatic valve will control the delivery of hot water from the storage cylinder at a maximum temperature of 150°F.

A cold water supply connection is made to the Hot Water Cylinder with a separate feed from the storage tank to heating boiler.

The warming of the building is maintained by a hot water unit heater fixed overhead and circulating the warmed air throughout the building. Alternatively, radiators or pipes may be used if preferred.

Boiler.—To be of the cast iron sectional hot water heating type of suitable make for either hard fuel or gas firing to the recommended sizes and capacities given on the attached schedule.

Hot Water Storage Cylinders.—To be of the annular ring, water to water type, and galvanised welded construction arranged with bolted end cover, all to the recommended sizes and capacities given in the attached schedule.

Unit Heaters or Radiators.—To be unit heaters or simple efficient pattern radiators, whichever is preferred, to maintain an internal temperature of 55°F.

Thermostatic Valve.—To be a "Trane" type or other suitable direct acting expansion Thermostatic valve suitable for passing the requisite quantities of hot water for the various systems with a working head of 5-ft. and to close against a maximum temperature of 150°F.

Injector fitting.—To be a "Trane" type or other suitable special galvanised injector fitting with connections for hot, cold and mixed water supplies for inserting in the pipe line.

Mains and Controls.—The mains to be in plain steel tubes for the heating circulations and galvanised tube for the water services. Control valves to be gun metal screwed type and comprise one for cold feed to indirect storage cylinder, one for cold feed to injector fitting, serving showers, etc., one master control for heating system.

Insulating Covering.—The hot water indirect storage cylinder only to be insulated with plastic asbestos non-conducting composition.

Drawings.—The attached drawings show in diagrammatic form the layout of piping, boilers, cylinders, unit heaters, etc., for each type of cleansing station.

Showers.—This scheme includes for piping to the shower point.

SCHEDULE APPENDIXNOTE :

All costs are for installations fixed complete and are based on prices ruling within a radius of 30 miles of London. They are, however, exclusive of builders' work, painting and plumbers' work in connection therewith.

Building	Scheme 1 Heating Type Boiler and indirect cylinder	Cost of complete Installation	Scheme 2 As Scheme 1, but boiler gas fired	Cost of complete Installation
Cleansing Station for 36 personnel	Boiler—85,000 B.T.U.s Unit heater or radiators Cylinder—80 gallon indirect $\frac{1}{2}$ " plate	£87	Boiler— 77,000 B.T.U.s do. do.	£103
Cleansing Station for 60 personnel	Boiler—116,500 B.T.U.s Unit heaters or radiators Cylinder—125 gallon indirect $\frac{1}{2}$ " plate	£112	Boiler— 119,000 B.T.U.s do. do.	£132
Cleansing Station for 90 personnel	Boiler—156,000 B.T.U.s Unit heaters or radiators Cylinder—200 gallon indirect $\frac{1}{2}$ " plate	£144	Boiler— 165,000 B.T.U.s do. do.	£168
Cleansing Station for 120 personnel	Boiler—223,000 B.T.U.s Unit heaters or radiators Cylinder—250 gallon indirect $\frac{1}{2}$ " plate	£195	Boiler— 205,000 B.T.U.s do. do.	£222
Cleansing Station for 180 personnel	Boiler—270,000 B.T.U.s Unit heaters or radiators Cylinder—350 gallon indirect $\frac{1}{2}$ " plate	£242	Boiler— 289,000 B.T.U.s do. do.	£255

NOTE :

Heating of the Building by Hot Water Radiators or Wall pipes may be adopted if preferred. Notes on the approximate running cost of coke fired boilers compared with gas boilers, based on prices of fuel generally obtained in the Central London Area. The following are the estimated figures for the approximate cost of warming the water and maintaining the heat in the buildings over a period of twenty-four hours.

Using Coke at 42s. 0d. per ton.

Using gas at 4d. per therm, plus an annual standard charge of approximately £11.

Buildings		Coke (per 24 hrs.)	Gas (per 24 hrs.)	
Cleansing Station	Small	4s. 6d.	6s. 0d.	} Plus annual standing charge
" "	Medium	5s. 6d.	8s. 0d.	
" "	Large	7s. 0d.	11s. 0d.	

The above costs may vary with each district, and local authorities should consider the cost of fuel available in their own area for coke fired boilers compared with gas boilers when determining the type of boiler to be employed. [345]

A.R.P. DEPARTMENT CIRCULAR No. 56/1939

March 27, 1939

CLEANSING ACCOMMODATION FOR A.R.P. SERVICES

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to the question of providing cleansing accommodation at the depots for rescue parties, decontamination squads and repair gangs, and also for use by first aid parties.

As indicated in the enclosure to the "Stages" circular of the 9th August, 1938 (703,213/3), it is desirable that depots with cleansing accommodation should serve groups of parties and squads, seeing that considerable expense is involved in providing a number of cleansing depots for small numbers of personnel. As a guide to local authorities the Lord Privy Seal has therefore had certain plans (copies enclosed) drawn up of typical cleansing accommodation for 36 men (plan No. 8), 60 men (plan No. 9), 90 men (plan No. 10), 120 men (plan No. 30), and 180 men (plan No. 31), respectively. Each type of depot is designed to provide dressing accommodation for the number of men specified, together with full accommodation for their anti-gas clothing, while the undressing and cleansing accommodation is calculated to enable half of that number to pass through the cleansing process in a period of half-an-hour (in three batches each occupying the space for 10 minutes). It is considered that this proportion of floor space is ample for purposes of a cleansing station; and the station can be made to accommodate a 20 or 30 per cent. greater number of men if some of the clothing racks in the dressing room are moved to some adjacent room or building and the space used for extra clothing lockers or pegs.

In calculating the size of cleansing stations required, account should be taken of all the members of rescue parties and decontamination squads, and of repair personnel,* actually based upon the depot; but accommodation which is sufficient for them should be regarded as also capable of providing if needed, cleansing facilities, distinct, from depot accommodation, for at least an equivalent number of other personnel (e.g., first aid parties, auxiliary firemen, etc., or other personnel normally based on other depots) without enlargement of the accommodation.

In planning the cleansing accommodation for any area, full account should be taken of the possibility of using an existing or proposed cleansing station for other personnel based on other depots not in themselves large enough to justify separate cleansing accommodation. Thus, first aid parties may not be based on the same depot as the rescue and decontamination services, but the cleansing station provided at the latter depot can be used for the cleansing when necessary of the first aid parties based on nearby first aid party depots. Similarly, in less densely populated areas, a cleansing station at one depot can be made to serve for the cleansing of rescue parties and decontamination squads based on other depots within a radius of a few miles. In these cases the size of the cleansing station should be governed primarily by the numbers of personnel based on the depot in which it is situated, for the reason that the personnel from another depot who may have to use the cleansing station would not add to the storage accommodation required for clothing, and it is reasonable to suppose, first, that not all the personnel who might have to use the cleansing station would have encountered persistent gas during the same raid and, secondly, that those who had so encountered gas would finish their tasks in gas at different times, so that need for using the cleansing accommodation would be spread over a considerable period.

The appropriate size of the station to be provided will be settled as part of the procedure in connection with the relevant "stage" in accordance with the circular of the 9th August, 1938. Stations of

*The number of repair personnel to be reckoned for this purpose are those for whom anti-gas equipment is to be provided. (See Circular No. 4/1939.)

intermediate sizes can be planned proportionately to the nearest type plan.

Whether the cleansing accommodation is formed by adaptation of an existing building or necessitates new construction, the types of material should be kept to the simplest possible form, and the enclosed specifications of materials and fittings are circulated for the information of local authorities. Expenditure will not in general be approved for purposes of grant if it arises from the use of more expensive methods or materials.

Further copies of the enclosures to this letter may be obtained as required for the guidance of local authorities within an administrative county.

I am, Sir, etc.

[346]

A.R.P. DEPARTMENT CIRCULAR No. 64/1939

March 27, 1939

GROUP CONTROLLERS IN NAVAL CO-ORDINATED AREAS AND ALDERSHOT COMMAND

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to the Home Office Circular (701,255/8) of the 27th February, 1937, regarding the areas around the Naval Home Ports and the Aldershot Command, where considerations of active defence arise, and to say, for the information of the local authority, that in order to carry out the special arrangements contemplated in para. 15 of that circular, and to adapt them to the method of control of the Civil Defence Services now laid down in A.R.P. Department Circular No. 57/1939, of the 21st instant, it is proposed to regard each of these areas as a Civil Defence Group and to appoint from the Active Defence Services concerned, a Group Controller for each Group, whose name will be notified to you. His appointment will not in any way affect the responsibility of the local authority concerned for the Air Raid Precautions Schemes for their areas, but he will be able to ensure the co-ordination of these schemes throughout the Group Area with one another and with the schemes of the Defence Services. Further, each scheme-making authority wholly within the Group should appoint a Controller for their area, as suggested in the Circular of the 21st instant, and a Sub-Controller or Sub-Controllers should be appointed for the part or parts of a County lying within the area of the Group.

In war, the existence of the Group Controller would affect the relations between A.R.P. Controllers or Sub-Controllers and the Regional Commissioner or County Controller, only to the extent that in the event of an air raid, Controllers and Sub-Controllers in the Group will make reports and any requests for assistance to the Group Controller and not to the Regional Commissioner, or in the case of the Sub-Controllers in the part of the County within the Group, to the County A.R.P. Controller. The Group Controller will be responsible for communicating with the Regional Commissioner when necessary on any matters of this kind; on any other matters the Controllers will have direct access to the Regional Commissioner, and the Sub-Controllers in the County to the County Controller, as though the Group Controller had not been appointed.

The Lord Privy Seal feels sure that he can count upon the co-operation of the Local Authority in carrying out these arrangements.

I am, Sir, etc.

[347]

A.R.P. DEPARTMENT CIRCULAR No. 68/1939

March 30, 1939

MEDICAL EQUIPMENT FOR FIRST-AID PARTIES

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to request you to inform your Council that contracts have now been placed for the supply of the medical equipment required for the pouches and haversacks to be used by first-aid parties, and as supplies become available these will be issued to local authorities, priority being given to the more vulnerable areas.

2. The Government have also decided that they will supply to local authorities, free of charge, additional quantities of the articles concerned for use in the first-aid boxes to be kept at wardens' posts.

3. The items required correspond (with minor amendments) with those recommended in the enclosures to the circular from this Department of the 3rd October, 1938. For convenience of reference a schedule is attached to this circular listing the quantities of individual items required respectively for the pouch and the haversack of first-aid parties and the wardens' first-aid box. The contents of the wardens' box are designed for a post serving a population of 500 inhabitants. Where the number is less, the contents of the box should be somewhat reduced. Where the post serves a population of, say 800 or over, two wardens' boxes may be provided, with further boxes for each additional 500 population. No wardens' first-aid box need be provided in a village where there is to be a first-aid point.

4. It will be seen that the items are divided into two groups, those which are consumable and those which are semi-consumable or non-consumable. The initial supply for every pouch, haversack and box will require the due quantity of all the items, consumable and non-consumable, but when it comes to reserve supplies for replenishment, these will consist of the consumable items and some reserve of the semi-consumable items such as tourniquets, but replacement of the non-consumable items such as clasp knives and scissors should not be necessary. The term "fill" is therefore used to express a full fill of all the items to provide the initial requirements of every pouch, haversack and box; and the term "refill" is used to mean a complete fill of the consumable items with a reduced allowance of the semi-consumable and non-consumable items, sufficient to form an adequate reserve. It is not necessary at this stage to specify exactly what percentage of replenishment of the semi-consumable and non-consumable items will be provided.

5. The Lord Privy Seal regards it as a matter of great importance, that, apart from the distribution of the initial fill of all pouches, haversacks and boxes, the refills or reserves should be held partly at the depots from which the first-aid parties are to start, partly in local bulk reserves and partly in national bulk reserves. It is not possible to forecast where replenishments will be needed, and it is only by means of a system of local and national bulk reserves that replenishment can be provided for the particular areas in which the initial supplies are consumed. The national bulk reserves will be

held in the Department's Regional Stores, and the issues to be made to local authorities will be divided into two categories, those which are to form the initial fills and the primary reserves at depots, and those which are to be held in local bulk reserves.

6. Local bulk reserves will be issued to all scheme-making boroughs and burghs, but the local bulk reserves for county areas will be issued to the County Councils and are to be held by the County Councils in bulk, though not necessarily at one central place in the county. These county bulk reserves should in fact be disposed where they could be made : adily available for any part of the county by rapid road transport, but in general there should not be more than one such bulk reserve for every 100,000 population in the county, and in the more densely populated counties a reserve store can serve a larger group of population. It must be clearly understood that these local bulk reserves (which, like the rest of the supplies, will remain the property of the Government) are available to be transferred in war from one area to another.

7. As regards the fills for wardens' boxes, a certain quantity estimated to be sufficient for one box per 500 population, together with a small additional quantity, will be sent to the authority in control of the wardens' organisation for the area. It is not intended that a separate reserve of these articles should be maintained for the wardens' boxes. After the requirements of the boxes which are to be provided have been set aside, any surplus items which may be available should be added to the reserve held by the authority in question (whether the reserve for first-aid parties or the county bulk reserve), and the replenishment of the wardens' boxes should be provided out of this reserve in the same way as the replenishment of the first-aid parties' pouches and haversacks.

8. The quantities of fills and refills which it is at present intended to supply for your county are as follows :—

I.—SUPPLIES FOR FIRST-AID PARTIES AND THEIR DEPOTS

(Unless otherwise arranged, these will, in England and Wales, be apportioned, on a scale per party which will vary with relative vulnerability, between the authorities notified as being responsible for the provision of first-aid parties in response to Circular No. 1/1939. In Scotland it is assumed they should go to the County.)

Pouch Fills.
Haversack Fills.
Pouch Refills.
Haversack Refills.

II.—SUPPLIES FOR WARDENS' BOXES

(To be issued to the authority controlling the wardens.)

Box Fills (including a small reserve)

III.—COUNTY BULK RESERVE

(To be issued to the County Council.)

Pouch Refills.
Haversack Refills.

I am to ask that the County Council will intimate as soon as possible :—

(a) whether they agree that the supplies under heading I above

should be sent for storage to the authorities mentioned therein ;

(b) to what authorities the supplies for the wardens' boxes should be sent ;

(c) to what address or addresses the county bulk reserve should be sent.

9. The supplies, on receipt, should be put in the charge of the Medical Officer of Health, and are to be held intact in time of peace and not used for purposes of training. The question of first-aid stores for training purposes will be dealt with in a separate circular, and that of any necessary turnover of the mobilisation supplies to avoid deterioration will be taken up at a later date.

10. The pouches, haversacks, water-bottles and torches for first-aid parties will also be supplied by the Government. The boxes for wardens' posts are to be purchased by local authorities, with the aid of grant, central purchase facilities being available as described in Circular No. 38/1939 of the 24th February.

11. The issues will be made in instalments as supplies become available, and in these issues priority will be given to the supplies for first-aid parties and local bulk reserve over the supplies for wardens' boxes.

12. A copy of this circular is enclosed for the information of the Medical Officer of Health.

13. A copy of the circular, without the insertion of the quantities to be supplied, is also being sent to county districts within the county for their information, but they are not being asked to take any action upon it.

I am, Sir, etc.

Item.	Contents of Pouch for a Member of a First-Aid Party.	Contents of Haversack for a First-aid Party.	Contents of First-aid Box at a Warden's Post.
CONSUMABLE ITEMS.			
Bandages, triangular	9	36	9-12
Cotton wool, 1 oz. packets	—	6 pkts.	—
Dressings, first-aid, pkts. (large)	6	18 "	6
" (medium)	6	12 "	6
Labels, casualty identity, books of 15 (with indelible pencil)*	1 book	—	—
Lint, unmedicated, in squares about 8-ins. by 12-ins.	—	6 sqrs.*	—
Ointment, bleach (and pieces of clean washed rag*) 2 oz. tins	1 tin	4 tins	1-2 tins
Safety pins (large), cards of 6	3 cards	8 cards	3-6 cards
Tannic acid jelly, $\frac{1}{2}$ oz. tubes	2 tubes	4 tubes	2 tubes
SEMI-CONSUMABLE AND NON-CONSUMABLE ITEMS.			
Canes, for tightening improvised tourniquets	3	8	3
Clasp knife	—	1	—
Scissors	1 pair	—	1 pair
Tourniquet (St. John's type)	1	2	1
Tourniquet (Samway)	—	1	—
Splints sectional wooden	—	2 sets	—
Straps for securing splints	—	18	—
Sets of long leg splints	—	3†	—
Straps for long leg splints	—	21†	—

* The pencil and pieces of rag will be left to be obtained locally.

† To be carried separately from the haversack.

A.R.P. DEPARTMENT CIRCULAR No. 67/1939

March 28, 1939

WHISTLES FOR WARDENS' POSTS

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to this Department's circular No. 38/1939 regarding the central purchase of certain articles of equipment for wardens' posts, and to request you to inform your Council that tenders have now been received for the supply of whistles, similar to police whistles, at a price not exceeding 7s. 6d. a dozen. A small discount will be available for prompt payment. They will be delivered carriage free in any quantity of not less than 50.

If your Council wish to obtain any whistles at the above price, up to a number which, after allowing for present stocks, does not exceed 60 per cent. of the authorised establishment of wardens, I am to ask that you will forward as soon as possible specific confirmation of the quantity required together with the address to which they are to be sent. A contract for supply will be placed by H.M. Office of Works as soon as orders have been received to a substantial quantity, and both to enable the contract to be placed and to ensure early supply to your Council I am to ask that your Council's decision on this matter may be forwarded as quickly as possible.

Following the receipt of your order, an advice will be forwarded to you by the Office of Works showing the name of the contractor, the terms of purchase, and the date upon which the order for your supply was placed. This advice note must be returned to the Office of Works, signed, after the receipt of the goods.

An invoice for the goods will be forwarded to you by the contractor and payment will be made by your Council direct to him (upon receipt of the goods), in accordance with the terms notified by the Office of Works. The payment will rank for grant.

In the case of Counties, it is assumed that the order will be placed by the County Council except in the case of authorities within the Metropolitan Police District, and in those cases elsewhere where the cost of the wardens' service is being borne by county districts. In those cases (outside the Metropolitan Police District) the County is asked to communicate the above particulars to the county district, to whom this circular is not being sent.

I am, Sir, etc.

[349]

A.R.P. DEPARTMENT CIRCULAR No. 69/1939 *

March 30, 1939.

HANDBELLS FOR WARDENS' POSTS

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to this Department's circular No. 38/1939 regarding the central purchase of certain articles of equipment for wardens' posts, and to request you to inform your Council that tenders have now been received for the supply of handbells at a price not exceeding 3s. 8d. each. They will be delivered carriage free in any quantity of not less than 20.

If your Council wish to obtain any handbells at the above price, up to a number which, after allowing for present stocks, does not

exceed 20 per cent. of the authorised establishment of wardens, I am to ask that you will forward as soon as possible specific confirmation of the quantity required together with the address to which they are to be sent. A contract for supply will be placed by H.M. Office of Works as soon as orders have been received to a substantial quantity, and both to enable the contract to be placed and to ensure early supply to your Council I am to ask that your Council's decision on this matter may be forwarded as quickly as possible.

Following the receipt of your order, an advice will be forwarded to you by the Office of Works showing the name of the contractor, the terms of purchase, and the date upon which the order for your supply was placed. This advice note must be returned to the Office of Works, signed, after the receipt of the goods.

An invoice for the goods will be forwarded to you by the contractor and payment will be made by your Council direct to him (upon receipt of the goods), in accordance with the terms notified by the Office of Works. The payment will rank for grant.

In the case of Counties, it is assumed that the order will be placed by the County Council except in the case of authorities within the Metropolitan Police District, and in those cases elsewhere where the cost of the wardens' service is being borne by county districts. In those cases (outside the Metropolitan Police District) the County is asked to communicate the above particulars to the county district, to whom this circular is not being sent.

I am, Sir, etc.

[350]

A.R.P. DEPARTMENT CIRCULAR No. 70/1939

April 1, 1939.

EQUIPMENT FOR RESCUE PARTIES

Sir,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to forward for the information of your Council the accompanying schedule of equipment which he considers should be provided for Light Rescue Parties and Heavy Rescue Parties. This list is substantially the same as the list given in the Appendix to A.R.P. Memorandum No. 2, but there have been certain minor modifications reached as a result of recent consultation and consideration.

2. As your Council will remember, it was stated in paragraph 15 of the circular of the 28th March, 1938, that the Government will themselves provide, to the extent which is in their judgment necessary, the equipment needed for these rescue parties in so far as that equipment is not required or normally available for peace-time purposes and is not already in the possession of the local authorities.

3. The Lord Privy Seal wishes to emphasise that local authorities should use every endeavour to make available for rescue parties in war such items of necessary equipment as can be diverted to that purpose out of local authorities' stocks, or can be earmarked in advance from other local sources. It is recognised that essential work of local authorities and of local contractors must continue in war, and that certain equipment must be retained for that use. Nevertheless articles held in reserve by local authorities for ordinary peace-time requirements, and a certain proportion of the articles in normal use by the

local authority or by contractors, should, in the opinion of the Lord Privy Seal, properly be earmarked for use by rescue parties in war, and to that extent should diminish the need for the special accumulation of rescue party equipment in peace.

4. The list in the schedule to this circular is divided into two parts. Part I consists of articles of which there is reason to believe that local authorities will need additional supplies for purposes of rescue parties, and certain supplies of these articles are being obtained. Part II consists of articles of which, in the opinion of the Lord Privy Seal, it should not normally be necessary for the local authority to require to obtain any additional supplies in time of peace. He hopes that these articles can be procured locally in sufficient numbers at the outset of an emergency without the need for present purchase.

5. So far as concerns the articles in Part I of the list, I am to ask that you will arrange for particulars to be submitted on one of the enclosed forms showing the quantities required for the rescue parties in the war establishment, the quantities which can be made available locally, including any purchases already made (col. 7), and the quantities which are required to complete the necessary sets of equipment (col. 8). These forms when received will be examined in the Department and in so far as the quantities asked for in col. 8 seem reasonable they will be supplied by the Department.

6. It will be observed that the form does not require particulars with regard to acetylene cutting outfits for heavy rescue parties. These will have to be considered separately, partly by relation to the need for this equipment in the area concerned, and partly by reference to the likelihood of supplies of oxygen cylinders, and acetylene cylinders being available in the district in time of war. In respect of heavy rescue parties therefore you are asked to write separately stating :

- (a) in respect of which heavy rescue parties your Council considers that oxygen-acetylene cutting apparatus is desirable, and why ;
- (b) whether at the place where each of these parties is based there is either a source of supply of filled oxygen and acetylene cylinders, or an establishment regularly using these cylinders in such quantities that a supply for the rescue party is likely to be readily available ; and
- (c) whether the party contains a man competent to operate an acetylene cutting outfit.

In places where an outfit is considered desirable, and an operator is available, but where no source of supply of cylinders is readily available, suggestions should be made how a supply could best be secured in war on the assumption that the availability and the transport of these cylinders might be restricted by war conditions.

7. This circular is being addressed only to counties (excluding the County of London) and county boroughs and large burghs, and to those county districts empowered to prepare separate air raid general precautions schemes. In the case of counties, further copies of the circular and forms, for purposes of consultation with county districts if required, may be obtained on application to this Department. It will be for the county council, in writing to county districts, to instruct them whether the completed forms are to be submitted to the Department direct or through the county.

I am, Sir, etc.

REVISED SCHEDULE OF RESCUE PARTY EQUIPMENT

For one heavy rescue party.		For one light rescue party.
PART I		
—	iron shod levers, 10 ft. long	2
3	iron shod levers, 12 ft. long	—
1	set of 4 inch rope tackle, 3 sheave—2 sheave	—
—	set of 8 inch rope tackle, 3 sheave—2 sheave	1
1	30 cwt. chain tackle	1
1	3 ton chain tackle	—
3	6 ft. chains (3 ton lift)	1
1 (4")	single sheave snatch block	1 (3")
2	jacks with 10 or 15 ton lift (preferably ratchet type)	2
1	jack with 20 ton lift (preferably ratchet type)	—
1	35 ft. ladder (extending)	1
1	portable acetylene cutting outfit	—
2	small acetylene flares	2
1	large acetylene flare	—
2	heavy axes	1
2	firemen's axes	2
2	two-handed cross cut saws	1
3	40 ft. lengths 1½ in. Manilla lashing lines	3
1	length (up to 100 ft.) 3 in. Manilla rope	1
1	length (up to 100 ft.) 4 in. Manilla rope	—
6	15 ft. lengths of wire rope	6
4	picks (light—4 lb.)	3
PART II		
4	crowbars	3
4	shovels	3
2	sledge hammers	1
2	hand saws	2
2	wheelbarrows (iron)	1
3	9 in. × 3 in. deals (about 12 ft. long)	3
6	hurricane lamps	4
	tarpaulins or stout canvas sheets, or sheets of corrugated iron (to protect trapped persons from falling debris until released)	
	"fire devil" (or fire basket) (for warming trapped persons in winter)	
	box of miscellaneous tools, spikes, timber dogs, etc.	
	blocks for fulcrums for levers.	

[B51]

A.R.P. DEPARTMENT CIRCULAR No. 75/1939

April 11, 1939

USE OF A.R.P. EQUIPMENT FOR TRAINING PURPOSES

Sir,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to the equipment of various types, as mentioned below, which has been or will be supplied to your Council, or to the Police Authority, by the Government for purposes of air raid general and fire precautions, and to convey the following guidance on the subject of the use of this equipment for purposes of training and exercises, as promised in the circular of the 21st October, 1938.

2. The responsibility of local authorities in relation to air raid precautions equipment loaned to them by the Government in this way (apart from the fire appliances and equipment covered by the Air Raid Precautions (Loan of Fire Appliances) Provisional Regulations, 1938) will be defined by regulations shortly to be made under section 11 (1) (a) and (b) of the Air Raid Precautions Act, 1937, and these regulations will include a power to the Secretary of State, to give directions on the subject of the use of the equipment for training which may be expected to be in line with the guidance contained in this circular.

3. The equipment dealt with in this circular is to be considered in two categories—that which is required for use in war, which is in this circular called mobilisation equipment, and that used for training purposes only, such as the smelling samples and diagrams issued for use by anti-gas instructors, which is referred to as instructional equipment. Mobilisation equipment and instructional equipment are dealt with in separate parts of this circular. A further circular will be issued shortly regarding the equipment required for incendiary bomb training.

I—MOBILISATION EQUIPMENT

4. Your authority will remember that it was explained in the circular of the 21st October, 1938, that all equipment covered by that circular which had been supplied to local authorities in the past—that is to say, equipment such as would be required in war—was to be regarded as part of mobilisation equipment. What is said in this part of this circular will therefore apply to all such equipment now in the possession of your authority which has been supplied by the Government, including any articles bought by a local authority, during the emergency last autumn or otherwise, the whole cost of which has subsequently been accepted by the Government.

5. It is desirable to emphasise that problems of supply, as well as of cost, set a limit to the quantity of mobilisation equipment which can be issued during the present year; that in the event of emergency all this equipment would be required in serviceable condition; that every article of equipment rendered unserviceable during training will diminish the quantity of equipment available for use in war; and that local authorities must not expect it to be possible to replace, this year, equipment which has become unserviceable.* It therefore follows that, while the need for using a proportion of equipment for training purposes has to be recognised, this use must not be allowed to stultify the accumulation of equipment for use in war in the case of articles which are consumed or deteriorate through use. The same considerations point to the imperative need for paying the utmost attention to the proper storage of equipment, and to the care and cleaning of articles used in training.

6. More detailed guidance on the care and maintenance of equipment, and on repairs, is being prepared.

Steel Helmets

7. Since steel helmets do not deteriorate with careful use, no limit is placed on the proportion of mobilisation stock which may be used in training.

* This does not mean that it will not be possible to replace training-type (i.e. type A) containers of Service respirators by containers of mobilisation type.

Anti-gas Equipment (respirators, oilskin garments, etc.)

8. From the circular No. 4/1939 a local authority can calculate its eventual mobilisation stock for air raid general precautions services of Service and C.D. respirators, oilskin garments, other oilskin equipment, gumboots and eyeshields.

The scales of issue of these articles for police and fire services will be separately notified. The scale for firemen will be in addition to the ordinary equipment of peace-time firemen and to the gumboots purchased by local authorities for auxiliary fire service personnel; and the provisions of this circular do not apply to articles other than those supplied on loan by the Government.

All these articles can easily be damaged and this is especially true in the case of oilskin garments.

For this reason the numbers of the articles covered by this paragraph which may be used in training or in exercises should never exceed, in the case of oilskin garments, 20 per cent. of the total mobilisation allotment due to be issued to the local authority, and in the case of Service and C.D. respirators, gumboots, and eyeshields, $33\frac{1}{3}$ per cent. of the total allotment; in other words, when those issues are complete, 80 per cent. of the oilskin garments and $66\frac{2}{3}$ per cent. of the other articles should be maintained in the condition of never having been worn. Wherever possible, the proportion used in training should be kept below the percentages, quoted above, and this is especially desirable in the case of heavy oilskin suits.

The quantities used in training must be calculated so as to include articles loaned, by the Department, with the consent of the local authority, to industrial firms in their area for training purposes, and treated as part of the issues to the local authority's area.

9. In the case of counties where mobilisation stocks for air raid general precautions services are to be held by the county authority, steps should be taken to ascertain, and take on county charge, all supplies of the respirators and other articles which have previously been issued to local authorities within the county. The quantities which may be used for training must include any such supplies in so far as they have already been used. Conversely, where these mobilisation stocks are to be held by the county districts, the county authority should allocate to particular districts any supplies now on county charge, and the articles so allocated if already used for training purposes, must be counted as part of the training allotment of the district to which they are allocated.

10. Any changes in responsibility for articles already issued which are made in accordance with the preceding paragraph should be notified by the county authority to this Department for purposes of record. County authorities should also report any cases in which, by reason of the distribution of training, difficulty is found in restricting training use within the percentages permitted; such cases will in the first instance be referred to the Department's Regional Officers for investigation.

11. In this connection it should be emphasised that articles already unserviceable for war purposes (e.g., torn garments) can quite well be kept in use for training, and indeed should be so used, so as to preserve unused as many as possible of the total supply.

First Aid Equipment of First Aid Parties and Wardens

12. In the matter of medical stores and equipment this circular is concerned only with the equipment of first aid parties and the contents

of wardens' first aid boxes. Stretchers, blankets and the equipment for first aid posts and points and hospitals, are the concern of the Ministry of Health and the Department of Health for Scotland, from which Departments guidance will be received. The first aid boxes issued with fire appliances come within the provisions of the Air Raid Precautions (Loan of Fire Appliances) Provisional Regulations, 1938.

13. The articles which will comprise the contents of the pouches and haversacks of first aid parties and the first aid boxes of wardens' posts, including reserve supplies of those articles, are to be maintained intact for use in war, and not used in training. Bandages, dressings and other articles required for the purpose of first aid instruction of all casualty service volunteers, or for the practical and collective training of first aid parties, or for exercises, should be obtained separately by local authorities, and their cost up to a reasonable amount will rank for grant. Current supplies obtained for training purposes would of course be available to supplement the mobilisation supplies on the occurrence of an emergency.

14. The pouches and haversacks themselves, and the water bottles for members of parties, may to some extent be needed in training and exercises, and with proper care should not suffer damage thereby. The pouches and haversacks which are so used cannot, however, be kept filled in peace-time with their contents for use in war. It is therefore suggested that a proportion only of the pouches and haversacks (not exceeding half the total number) should be used in peace-time training and exercises, being filled for the purpose with training supplies only, and the other half (and more if possible) should be filled with their war contents, ready for immediate use, and kept stored with the war supplies in accordance with the preceding paragraph.

Equipment of Rescue Parties and Decontamination Squads

15. To the extent to which the equipment of rescue parties and decontamination squads is supplied by the Government, the articles so supplied must be stored ready for use in war, and not used for the peace-time purposes of the local authority. Some part of them will, however, be needed in A.R.P. training and exercises, and they are not of a nature to take harm from such use if care is exercised. It is suggested that wherever possible these articles should be stored in sets for their respective parties and squads, and that at least half of the total quantities should be kept new and entirely unused. The remainder may be used in training and exercises as required, provided that they are always cleaned and put away after use.

Equipment for Wardens' Posts

16. The equipment for wardens' posts which is bought by local authorities with the aid of grant is their property, and responsibility for maintaining it in serviceable condition rests with them. Some of it will be required in the course of training and exercises, and to the extent that it may be found necessary to use it in this way every care should be taken over cleaning it and putting it away in storage after use.

Grant cannot be made available in the future for the replacement of this equipment to an extent which exceeds fair wear and tear of such numbers of articles as ought reasonably to be used in training and exercises.

Sandbags

17. A certain quantity of sandbags will be needed for training purposes, but these may only be used at Training Centres properly equipped for the purpose, and sandbags must not be dissipated in casual use at places which are not properly speaking Training Centres.

In paragraph 18 of the circular No. 9/1939 a recommendation was made for the provision of Training Centres to serve areas in which the war establishment for air raid precautions services was 1,000 or over. At any Training Centre established on this basis, up to 2,000 sandbags may be allotted for training purposes under the guidance of A.R.P.S. and L.A.R.P. instructors. This quantity should suffice for a year's work, but it will only be made to do so if, apart from any limited use of sandbags to provide and maintain a permanent section of walls for demonstration, the bags used are emptied and dried after use.

18. Any training of police or fire brigade personnel in the use of sandbags should be arranged at these Training Centres and no separate allotment of sandbags for training use is made for these services.

II—INSTRUCTIONAL EQUIPMENT

19. Owing to the recent rapid increase in the number of qualified instructors, it has been found necessary to discontinue the issue of instructors' units on the basis of one for each qualified instructor (C.A.G.S. or L.A.G.C.). As from the date of this circular, therefore, the following items of instructional equipment will be issued only in accordance with the scales set out below, which, except where otherwise indicated, replace the relevant paragraphs in A.R.P. Memorandum No. 5 (2nd edition).

Instructor's Unit

20. Instructors' units will be issued to an authority on the basis of one unit for every 250 volunteers in the approved war establishment. At the moment a unit consists of the following items of equipment :

- 1 tool, detaching (for tube of Service respirator);
- 1 key, eyepiece (for Service and Civilian Duty respirators with detachable eyepiece);
- 4 2-oz. tins of bleach ointment;
- 1 small set of smelling and visual samples;
- 1 set of instructional diagrams (anti-gas);
- 1 set of instructional diagrams (incendiary bomb).

When applying for a unit, the following particulars should be given:—

- (a) Number of units already in possession of the authority.
- (b) Number of volunteers on the approved war establishment.

Smelling and Visual Samples

21. One large set will be supplied as hitherto for use in each gas chamber approved by the Home Office.

C.A.P. Capsules

22. These are available as hitherto for use in an approved gas chamber.

Mixture "Z"

23. An allowance of $\frac{1}{2}$ -gallon concentrated is sufficient for eight courses in decontamination, on the basis of 10 fluid ounces for each course.

24. Correspondence regarding issues of instructional equipment should be addressed to the Director of Supply, Home Office (A.R.P. Department), Cleland House, Page Street, London, S.W. 1.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 81/1939

April 12, 1939

NOTEBOOKS FOR WARDENS' POSTS

Sir,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to this Department's Circular No. 38/1939 regarding the central purchase of certain articles of equipment for wardens' posts, and to request you to inform your Council that H.M. Stationery Office are preparing a special notebook, quarto size, 72 leaves, ruled feint, in board covers, printed

"A.R.P.

Wardens' Post No....",

with a space between in which the name of the local authority or area can be inserted.

The price of these books is 6d. each, with a discount of 20 per cent. for quantities of 100 or more. Carriage will be extra. Orders should be addressed direct to H.M. Stationery Office, Shepherdess Walk, London, N.1. Initial orders should in no case exceed two books per wardens' post. This quantity will allow one per post to be kept for use in war only. The cost will rank for grant.

In the case of Counties, it is assumed that the order will be placed by the County Council except in the case of authorities within the Metropolitan Police District, and in those cases elsewhere where the cost of the wardens' service is being borne by county districts. In those cases (outside the Metropolitan Police District) the County is asked to communicate the above particulars to the county district, to whom this circular is not being sent.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 82/1939

April 12, 1939

HAND RATTLES FOR WARDENS' POSTS

Sir,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to this Department's Circular No. 38/1939 regarding the central purchase of certain articles of equipment for wardens' posts, and to request you to inform your Council that tenders have now been received for the supply of rattles at a price not exceeding 11½d. each. They will be delivered carriage free in any quantity of not less than 20.

If your Council wish to obtain any rattles at the above price, up to a number which, after allowing for present stocks, does not exceed 40 per cent. of the authorised establishment of wardens, I am to ask that you will forward as soon as possible specific confirmation of the quantity required together with the address to which they are to be sent. A contract for supply will be placed by H.M. Office of Works as soon as orders have been received to a substantial quantity, and both to enable the contract to be placed and to ensure early supply to your

Council I am to ask that your Council's decision on this matter may be forwarded as quickly as possible.

Following the receipt of your order, an advice will be forwarded to you by the Office of Works showing the name of the contractor, the terms of purchase, and the date upon which the order for your supply was placed. This advice note must be returned to the Office of Works, signed, after the receipt of the goods.

An invoice for the goods will be forwarded to you by the contractor and payment will be made by your Council direct to him (upon receipt of the goods), in accordance with the terms notified by the Office of Works. The payment will rank for grant.

In the case of Counties, it is assumed that the order will be placed by the County Council except in the case of authorities within the Metropolitan Police District, and in those cases elsewhere where the cost of the wardens' service is being borne by county districts. In those cases (outside the Metropolitan Police District) the County is asked to communicate the above particulars to the county district, to whom this circular is not being sent.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 85/1939

April 17, 1939

STIRRUP HAND PUMPS FOR WARDENS' POSTS

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to Section 5 of A.R.P. Memorandum No. 4 and to request you to inform your Council that orders are now being placed for a supply of stirrup hand pumps, with the dual purpose nozzle, which can be made available to local authorities at the price of 13s. each delivered.

These hand pumps are not being provided for every wardens' post, but local authorities responsible for wardens' organisations will be permitted to purchase in the first instance a quantity representing one hand pump per 1,000 population. The number available for your area will be

It is considered desirable that the first supply of pumps which will become available should be distributed rapidly over the whole country, in order to facilitate incendiary bomb training. It is therefore proposed that, if your Council wish to obtain any of these pumps, the first instalment to be supplied to you would be 10 per cent. of the above figure, the remainder to follow as available.

If your Council wish to obtain the above number of hand pumps at the price quoted, I am to ask that you will forward as soon as possible specific confirmation of the quantity required, together with the address to which they are to be sent. This confirmation, together with a cheque made payable to the Commissioners of H.M. Works and Public Buildings in payment for the interim (10 per cent.) supply, should be forwarded to—

The Controller of Supplies,
H.M. Office of Works,
Dean Bradley House,
Horseferry Road,
London, S.W.1.

Supplies will be issued as soon as they become available. The orders will normally be dealt with in the order that they are received.

In due course, after the interim deliveries have been completed, you will be advised by the Office of Works that the number required to complete the order can be supplied and, on receipt of your further cheque, the issue will be made.

No supplies can be made in advance of payment.

In Counties, it is assumed that the order will be placed by the County Council, except in the case of authorities within the Metropolitan Police District, and in those cases elsewhere where the cost of the wardens' service is being borne by county districts. In those cases (outside the Metropolitan Police District) the County is asked to communicate the above particulars to the county district, to whom this circular is not being sent. The total quantity ordered by county districts must be kept within the county total quoted above.

If your Council do *not* wish to accept the allotment of pumps offered above, you are asked to notify the fact to the Office of Works as early as possible in order that the pumps may be allotted elsewhere. Allotments not accepted by the 1st *May* will be assumed not to be required.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 86/1939

April 18, 1939

ACCELERATION OF CIVIL DEFENCE MEASURES

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to say that His Majesty's Government have had under review the measures which can be taken to accelerate the process of organising National Defence in its various branches.

Sir John Anderson has in particular directed his attention to the organisation and development of Civil Defence measures for which local authorities are primarily responsible. He fully recognises the pressure of work upon local authorities and their officers which the organisation of these measures must entail, but he is confident that local authorities will appreciate the imperative need, in present circumstances, for taking all practicable steps to ensure the greatest possible expedition.

His Majesty's Government therefore have decided to request local authorities so to arrange their business that during the next three months priority is given to Civil Defence matters over other business before the authority and to ensure that all responsible Officers of the authority are instructed accordingly. The Government believe that the progress already made in Civil Defence is, in general, such that a sustained effort for this period will mark a definite stage in the preparedness of the country to meet an emergency if it should arise, and that this can be done without serious delay or interference in any essential social service for which the authority is responsible.

Authorities have already been given general sanction from the A.R.P. Department to incur expenditure on various items of air raid precautions without the need for specific approval in each case. Circular 62 of 25th March, 1939, indicated that authority had now been delegated to Regional Officers of the Department to authorise expenditure in a number of other matters.

Sir John Anderson regards it as unnecessary to indicate in detail to scheme-making authorities the various steps that might suitably be taken to ensure that progress over the area for which they are responsible is expedited, but he feels it desirable again to call the attention of the authorities to the need for making adequate provision in staff, both for the purpose of accelerating measures now in progress and for meeting the additional work which will arise in connection with the new Bill. In engaging any necessary additional staff local authorities should have regard to the claims of the Defence Services on younger men, particularly in the case of non-technical officers, and should bear in mind the age limits and classifications laid down in the schedule of reserved occupations or any modification thereof which may have been issued.

As he indicated in his statement on the Second Reading of the Bill on the 4th April, if progress at a satisfactory rate under that measure is to be made, it will be necessary for action to be taken before formal sanction of Parliament to the measure has been given, and the necessary preparations for this must be made beforehand.

I am to request you to bring this letter forthwith to the notice of the Mayor or Chairman of the Council, in order that the necessary steps may be taken at once to expedite action in this urgent matter.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 87/1939

April 19, 1939.

STEEL SHELTERS—ADDITIONAL SECTIONS

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to the circular letter No. 28 of the 8th February (hereinafter called the principal circular) regarding the sectional steel shelters which have been designed for the protection of the ordinary citizen at his own home. In the fourth paragraph of the principal circular the Lord Privy Seal explained that while the shelter, as supplied would accommodate from four to six persons, sections could be added to this unit to take more persons if there were more members of the household.

Components for enabling this to be done are now being manufactured, and a leaflet is enclosed which describes these variations of the standard unit and contains directions for erecting and sinking the additional sections. Further copies are available if required.

The Lord Privy Seal desires me to draw your attention to the following points in particular.

The two extension units described are designed to accommodate two and four additional persons respectively. The maximum number of persons that can be accommodated in the standard shelter, with extensions, is therefore ten. If it is desired to accommodate more than ten persons, two shelters of appropriate size should be erected—see the note at the end of the leaflet.

In cases where two or more families are occupying the same house, the required protection may, if they agree, be provided by means of a single shelter, enlarged as necessary by means of the extension units. In such a case there would be less interference with the normal use of the garden space.

The standard shelter with the extensions may be used for houses of

three or even four storeys if it is possible to site the shelter at a distance from the house or any neighbouring building of at least half the height of the nearest wall of the house or other building. Where that distance exceeds 15 feet an earthen or other wall should be erected to provide splinter proof protection for the shelter entrance.

In order to facilitate the supply, it will be desirable for lists to be prepared of the houses in your area for which the extension units are required, separate from lists of households for which standard units are adequate. An address should not be included unless

- (a) the number of persons in the house necessitates the use of the additional sections,
 - (b) there is sufficient space to enable the shelter to be sited at a proper distance from the house or any neighbouring building.
- The list should indicate the number of persons to be accommodated in the shelter.

If your authority is erecting and sinking the shelters for the householders and find it more convenient to have the extension components delivered to a central depot belonging to your authority, instead of being delivered direct to the householder, this will be arranged if the address of the depot is indicated on the lists.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 90/1939

April 24, 1939

BLEACH POWDER

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to ask you to inform your Council that further issues of bleach powder are about to be made. These will be in 1 cwt. drums and some of the supplies will be bleach of ordinary and not "tropical" quality.

The basis of issue will be to bring up the quantities already issued to a total varying from 10 cwt. to 15 cwt. per decontamination squad on the war establishment. The precise quantities which will be issued to your authority will be notified as deliveries become available.

In the case of county councils, I am to ask that immediate information may be given whether the supplies of bleach powder are to be made to the county council or to individual county districts, or partly to the latter with a balance in county reserve. At the same time county councils are asked to forward a statement of the present distribution of the quantities of bleach powder previously issued in 4 cwt. drums. Where the present distribution of these drums does not coincide with the arrangements which the county council now wish to make, the council are asked to make the necessary arrangements for re-allotting those supplies; that is to say in cases where supplies are in future to be held by the county and existing stocks are held by individual county districts, the county council should make arrangements to take over those stocks; conversely, where future supplies are to be stored by county districts and the county council holds the existing stock larger than is proposed as a county reserve, that stock, or the excess stock, should be distributed among the county districts, and the amounts, so to be distributed should be included in the statement referred to at the beginning of this paragraph. In no case in a county should more than one 4 cwt. drum be allotted in respect of each

decontamination squad; the balance should take the form of 1 cwt. drums in the new issue. It is possible that at a later date 4 cwt. drums may be withdrawn from county areas and replaced by 1 cwt. drums; and where in a county area there is already more bleach powder than is consistent with the present allotment the surplus will in due course be withdrawn by the Department.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 92/1939

(Corrected Copy)

April 25, 1939

FIRST-AID BOXES FOR WARDENS' POSTS

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to this Department's Circular No. 88/1939 regarding the central purchase of certain articles of equipment for wardens' posts, and to request you to inform your Council that tenders have now been received for the supply of japanned metal first-aid boxes for wardens' posts at a price not exceeding 3s. 8d. each. They will be delivered carriage free in any quantity of not less than 20.

These boxes may be provided on the basis described in paragraph 3 of Circular No. 68/1939 (Medical Equipment for First-aid Parties) of the 30th March. It will be noted that no box need be provided in villages where there is a first-aid point. As stated in paragraph 2 of that circular, the contents for these boxes will be supplied by the Government without charge.

If your Council wish to obtain any boxes at the above price, up to a number which, after allowing for present stocks, is required to complete the required quantity, I am to ask that you will forward as soon as possible specific confirmation of the quantity required together with the address to which they are to be sent. A contract for supply will be placed by H.M. Office of Works as soon as orders have been received to a substantial quantity, and both to enable the contract to be placed and to ensure early supply to your Council I am to ask that your Council's decision on this matter may be forwarded as quickly as possible.

Following the receipt of your order, an advice will be forwarded to you by the Office of Works showing the name of the contractor, the terms of purchase, and the date upon which the order for your supply was placed. This advice note must be returned to the Office of Works, signed, after the receipt of the goods.

An invoice for the goods will be forwarded to you by the contractor and payment will be made by your Council direct to him (upon receipt of the goods), in accordance with the terms notified by the Office of Works. The payment will rank for grant.

In the case of Counties, it is assumed that the order will be placed by the County Council except in the case of Authorities within the Metropolitan Police District, and in those cases elsewhere where the cost of the wardens' service is being borne by county districts. In those cases (outside the Metropolitan Police District) the County is asked to communicate the above particulars to the county district, to whom this circular is not being sent.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 97/1939

*May 4, 1939*INSURANCE OF MOTOR VEHICLES LENT FOR A.R.P. AND
A.F.S. PURPOSES

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to the Home Office Circular (701,257/52) of the 31st August, 1937, and the Scottish Office Circular No. 3,295 of the same date, regarding the arrangement made with the Accident Offices Association, Lloyd's Motor Underwriters' Association and individual non-tariff Companies transacting motor vehicle insurance, as to the provision of cover for the use on Air Raid Precautions and Auxiliary Fire Service work in peace-time of cars belonging to volunteers enrolled in connection with local air raid general and fire precautions schemes.

2. The endorsement described in the above-mentioned circulars applies only to vehicles which are insured for social, domestic and pleasure purposes; and does not provide additional cover in the case of such vehicles when they are, for example:—

- (a) only covered by a third party policy, or
- (b) only partly insured, the owner carrying, for example, the first £5 or more of any accidental damage; nor does it provide any compensation against the possible loss of a "no-claim" bonus due to an accident to the insured vehicle while being used for training or duty purposes.

3. The Lord Privy Seal appreciates that these limitations may operate inequitably in the case of volunteers who may lend their cars for the purposes mentioned or may make it difficult for the Local Authority to obtain in peace-time the use of a sufficient number of suitable vehicles. In these circumstances it has been decided that any claim for accidental damage sustained by a vehicle to which any such limitations as are indicated in paragraph 2 apply, may, if it is lent to the Local Authority for any purpose in connection with Air Raid Precautions or Auxiliary Fire Service training rank for grant, subject to the following conditions:—

- (a) All claims of over £5 must in the first place be referred to the Home Office, except in the case of Auxiliary Fire Service claims in Scotland, which should be sent to the Scottish Office.
- (b) No payments are to be made except against properly signed receipts.
- (c) Payments are only to be made where the local authority are satisfied that the driver exercised reasonable care.

4. I am to add that Local Authorities should continue to use, to the fullest possible extent, fully insured vehicles, covered for use for social, domestic and pleasure purposes. Furthermore, it should be made clear to owners of vehicles which are eligible to obtain an endorsement in accordance with the circular of the 31st August, 1937, that they should obtain the endorsement offered, notwithstanding the arrangements mentioned in this circular, and that in the event of failure to have their policies endorsed, no claim would be allowed which could have been covered by the endorsement.

5. It has also been decided that where a vehicle has been lent to a Local Authority for Air Raid Precautions or Auxiliary Fire Service purposes and is damaged while being used for such purposes, and as

a result the owner loses his "no-claim" bonus for the ensuing year, the amount of the loss, if made up to the owner by the Local Authority, will rank for grant.

I am, Sir, etc.

[360]

A.R.P. DEPARTMENT CIRCULAR No. 100/1939

May 4, 1939

AMENDMENT TO CIRCULAR No. 4/1939

RESPIRATORS FOR AMBULANCE DRIVERS. ETC.

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to the scale of issue of personnel protective equipment for air raid general precautions service notified in the Department's Circular No. 4/1939 of the 17th January, 1939 (of which a copy was sent to Local Authorities not empowered to submit separate air raid general precautions schemes with the Circular No. 48/1939 of the 14th March, 1939), and to request you to inform your Council that he has decided that Civilian Duty respirators shall be provided in place of Service respirators for the drivers and attendants of ambulance vehicles and the drivers of cars for sitting casualties.

The scale of issue will be the same.

I am, Sir, etc.

[361]

A.R.P. DEPARTMENT CIRCULAR No. 99/1939

May 3, 1939

**TRAINING OF INSTRUCTORS (C.A.G.S.) IN INCENDIARY BOMB CONTROL
AND ELEMENTARY METHOD OF PROTECTION AGAINST HIGH
EXPLOSIVE BOMBS**

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to Air Raid Precautions Department Circular No. 76/1939, in which reference was made to the establishment of ten Temporary Schools for affording to existing Instructors (C.A.G.S.) training in incendiary bomb control and elementary methods of protection against high explosive.

The schools are being established at Birmingham, Doncaster, Glasgow, Gloucester, Manchester, Newcastle, Nottingham, Reading, Stoke Newington (London), and Wandsworth (London), and the areas to be served by each of the schools are indicated in the Appendix to this Circular. The allocation of vacancies at each school will be in the hands of the Regional Officers of this Department stationed respectively at Birmingham, Leeds, Edinburgh, Bristol, Manchester, Newcastle, Nottingham, Reading and London.

It is the intention so far as possible to train first Instructors with Special and First-class (Endorsed) Certificates, followed by those with First-class, those with Second-class Certificates, and Instructors recognised by the Home Office as having equivalent status to Instructors (C.A.G.S.), in that order. After receiving the supplementary training, Instructors will have their C.A.G.S. Certificates endorsed by the Regional Officer to indicate that they are henceforward qualified as Instructors (A.R.P.S.), subject to its being within the power of the Regional Officer to withhold this endorsement where he is satisfied that it cannot properly be given. Instructors (A.R.P.S.) who have

failed to qualify in incendiary bomb control at the Falfield or Easingwold School will not be accepted for attendance at the Temporary Schools.

The courses will occupy 4½ days, beginning generally at midday on Monday and terminating on Friday afternoon. It is hoped that every endeavour will be made to release Instructors from their ordinary duties for the purpose of the additional training. Travelling expenses and subsistence allowances incurred by Local Authorities in connection with attendance at the schools will rank for grant under the same conditions as in the case of attendance at the permanent Home Office Schools.

Mention is made in Circular 76/1939 of the great importance of ensuring that prospective students at the Falfield and Easingwold Schools shall be fit, both physically and temperamentally, to undergo the strenuous training involved. The same conditions in general apply to the training at the temporary schools, and the Lord Privy Seal requests that particular attention should be paid to ensuring that all Instructors sent to the schools fulfil the necessary conditions of suitability and medical fitness.

A further circular will be issued shortly concerning the training of Instructors (L.A.R.P.) and local air raid precautions personnel in incendiary bomb control and elementary methods of protection against H.E.

I am, Sir, etc.

APPENDIX

AREAS TO BE SERVED BY THE SCHOOLS.

Birmingham.	Hereford, Salop, Stafford, Warwick, Worcester, Anglesey, Cardigan, Caernarvon, Denbigh, Flint, Merioneth, Montgomery, Radnor.
Doncaster. (Regional Officer : Leeds.)	Lincoln, Yorks (East Riding), Yorks (West Riding).
Glasgow. (Regional Officer : Edinburgh.)	Scotland, Northern Ireland.
Gloucester. (Regional Officer : Bristol.)	Cornwall, Devon, Dorset, Gloucester, Monmouth, Somerset, Wiltshire, Brecknock, Carmarthen, Glamorgan, Pembroke.
Manchester.	Cheshire, Isle of Man, Lancashire.
Newcastle-on-Tyne.	Cumberland, Durham, Northumberland, Westmorland, Yorks (North Riding).
Nottingham.	Bedford, Cambridge, Derby, Huntingdon, Isle of Ely, Leicester, Norfolk, Northampton, Nottingham, Rutland, Soke of Peterborough.
Reading.	Berkshire, Buckingham, Hampshire, Isle of Wight, Oxford, Surrey, Sussex.
London : Wandsworth.	Kent. Middlesex (Acton, Brentford and Chiswick, Ealing, Feltham, Harrow, Hayes and Harlington, Hendon, Heston and Isleworth, Ruislip, Northwood, Southall, Staines, Sunbury, Twickenham, Uxbridge, Wembley, Willesden, Yiewsley and West Drayton).

London :
Wandsworth—*contd.*

London, North of Thames (Chelsea, Fulham, Hammersmith, Kensington, Paddington, St. Marylebone, Westminster).

London, South of Thames (Battersea, Bermondsey, Camberwell, Deptford, Greenwich, Lambeth, Lewisham, Southwark, Wandsworth, Woolwich, Metropolitan Police and Special Constables).

London :
Stoke Newington.

Hertfordshire.

Essex.

Suffolk.

Middlesex (Edmonton, Enfield, Finchley, Friern Barnet, Hornsey, Potter's Bar, Southgate, Tottenham, Wood Green).

London, North of Thames (Bethnal Green, City, Finsbury, Hackney, Hampstead, Holborn, Islington, Poplar, St. Pancras, Shore-ditch, Stepney, Stoke Newington, Metropolitan Police and Special Constables). [362]

A.R.P. DEPARTMENT CIRCULAR No. 115/1939

June 6, 1939

FINANCIAL ARRANGEMENTS FOR FIRST-AID INSTRUCTION AND TRAINING

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to paragraph 7 (b) (iii) of the Air Raid Precautions Department's Circular No. 703,189/19, of 26th August, 1938, and to say that it has been decided that the charge usually made by the first-aid organisations for administrative expenses in connection with the registration of classes, examination and issue of certificates, may be met by local authorities in respect of volunteers for the Air Raid Precautions Casualty Services taking the examination for a full certificate in first-aid. This charge will be payable at the rate of 10s. 6d. for a class up to 20, plus 6d. per head for each person above that number. Expenditure under this head will rank for grant.

As regards the fees payable to the lecturer and examiner under paragraph 7 (b) (iii), I am to say that in the Lord Privy Seal's view the appropriate fee, in the case of the full course, would be £1 1s. per session for the lecturer, and £1 1s. for the examiner for a class of 20 or less (with an additional 1s. a head for numbers above 20). If it is considered necessary to appoint a practical instructor (demonstrator) a fee not exceeding 7s. 6d. per session is appropriate.

I am, Sir, etc.

[363]

A.R.P. DEPARTMENT CIRCULAR No. 101/1939

May 4, 1939

AIR RAID WARDENS' POSTS

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to the Department's Circular No. 25/1939 of the 9th February last on the subject of the organisation of the Air Raid Wardens' Service, and in particular to paragraph 5 of that Circular regarding the urgent provision of a proportion of the

number of wardens' posts on the scale of preparation there laid down. This is a matter to which the Lord Privy Seal would ask all Authorities to give their most urgent attention. He understands that in many areas Authorities are experiencing difficulties in securing existing premises which are suitable for this purpose, and that in many cases, even when such premises are available, the problem of providing the necessary blast and splinter-proof protection is often found to present difficulties. He desires, therefore, to bring the following observations to the notice of authorities.

Wherever suitable accommodation can be secured in existing buildings for occasional use for the purposes of exercises and permanent occupation on a threat of emergency and can be protected at reasonable cost, it should be utilised. In such cases it should not be necessary to pay more than a small retaining fee in peace-time and in war-time such compensation as may be payable under any legislation governing the matter. Where such premises are not available the Lord Privy Seal is prepared, as regards populous areas whose character renders them liable to serious air attack, to agree to the provision of the necessary wardens' reporting posts by new construction, e.g., of the concrete or metal shelter type.

Wherever possible any posts so constructed should be on land which is in the ownership of the Authority or is available for use without charge, and in any case where charges for land have to be incurred every endeavour should be made to keep them to a minimum.

As regards the cost of the concrete or metal posts, the Lord Privy Seal has already agreed to a number of proposals for the construction of posts providing accommodation for six wardens or occasionally even more and the necessary equipment at prices of £30 to £40 per post. Other cases which have come to his notice, however, indicate that it may not always be practicable to provide posts at this price, and the Lord Privy Seal while relying on Local Authorities to secure all possible economy has decided that he will recognise for purposes of A.R.P. Grant expenditure up to £50 for posts to accommodate six persons at any one time with the necessary equipment or £75 for larger posts; and within these amounts Local Authorities may proceed to provide posts up to the required number by new construction to the extent to which the Department's Regional Officer concerned is satisfied that new construction is called for. Details of construction should be discussed and agreed with the Regional Officer, and in all cases a telephone should be installed so that the post when completed can be used for purposes of exercises in peace-time. Any cases entailing expenditure in excess of the above rates should be submitted to the Department for prior approval.

The householders' shelters now being issued in certain areas for free distribution to members of the public should not be diverted from their original purpose for use as wardens' posts.

I am, Sir, etc.

[364]

A.R.P. DEPARTMENT CIRCULAR No. 103/1939

May 5, 1939

RATES OF PAY AND COMPENSATION

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to forward, for the information of

your Council, the accompanying copies of statements which he has made in the House of Commons regarding (a) the rates of pay for air raid precautions volunteers serving whole-time in war and (b) arrangements for peace-time compensation for air raid precautions volunteers, together with a copy of an extract from a statement by the Chancellor of the Exchequer on the subject of war-time compensation.

I am, Sir, etc.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS

January 31, 1939

(Extract from a statement by the Chancellor of the Exchequer)

As regards individuals, the Government have had under consideration arrangements for giving compensation from public funds in respect of death or of injury involving serious disablement caused by air raids or other war-like action. A scheme is being worked out to cover casualties to civilians, its purport being that, in addition to persons enrolled as volunteers in air raid or other such services who might be injured or killed while on duty, the scheme would apply to casualties among civilians wholly or mainly dependent for their livelihood upon their employment or occupation. Provision will also have to be made in the scheme for other cases where need arises. The rate of compensation for persons injured or for dependent widows or children of persons killed, would, broadly speaking, be calculated by reference to the standard rate of compensation and to the conditions applicable to the private soldier recruited for service in connection with the same hostilities.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS

February 16, 1939

Mr. MARKHAM asked the Lord Privy Seal whether he can now state the rates of pay which it is proposed to offer to volunteers serving whole-time during war in the services of civil defence?

Sir J. ANDERSON: It is at present contemplated that there should be a flat rate of pay for whole-time service in war for all air raid precautions volunteers and for auxiliary firemen, the rate for men being 60s. a week and for women 40s. a week. It will be understood that this proposal must be subject to any later decisions of the Government of the day, should the occasion for whole-time service arise.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS

March 2, 1939

Mr. SIMMONDS asked the Lord Privy Seal whether he can make a statement regarding the compensation to be paid to members of the

Civil Defence Services who may be killed or injured during peace-time training?

Sir J. ANDERSON: I am now able to announce that it has been decided that the existing compensation arrangements made by Local Authorities by way of insurance policies shall, *as and when the present policies expire*, be replaced by a Government scheme. The broad effect of this will be that compensation will be paid by the Government to members of the Civil Defence Services in respect of death or disablement directly attributable to injury sustained by volunteers in the course of peace-time training. The terms in the case of auxiliary firemen reflect the higher benefits which have hitherto been available under the policies relating to that service. The particulars are as follows:—

A.—DEATH.

(1) Members of A.R.P. Services (other than Auxiliary Firemen):

- (a) £600 to widow with dependent child or children;
- (b) £400 to widow without dependent child;
- (c) £300 in respect of motherless dependent child or children;
- (d) Compensation up to a maximum of £300 to other relatives wholly or mainly dependent, if no payment has been made under (a), (b) or (c) above.

(2) Auxiliary Firemen:

- (a) £1,000 to widow with dependent child or children;
- (b) £700 to widow without dependent child;
- (c) £500 in respect of motherless dependent child or children;
- (d) Compensation up to a maximum of £500 to other relatives wholly or mainly dependent, if no payment has been made under (a), (b) or (c) above.

B.—TOTAL DISABLEMENT.

£3 a week for 26 weeks, and thereafter 30s. a week for a single man, 35s. a week for a man and wife, 40s. a week for a man and wife and one dependent child; with an additional allowance of 3s. a week for each additional dependent child up to a maximum total payment of 49s. a week.

C.—PERMANENT PARTIAL DISABLEMENT.

Rates proportionate to those payable in case of total disablement, the proportion being based on the degree of physical incapacity.

D.—MEDICAL EXPENSES.

Repayment of reasonable medical expenses incurred during the initial period of disability.

In the case of disabled women, compensation will be payable at two-thirds of the rates quoted.

Auxiliary firemen already covered by an insurance policy will have the option either of retaining the benefits laid down in each policy or of accepting the alternative benefits now to be provided.

A.R.P. DEPARTMENT CIRCULAR No. 104/1939

May 5, 1939

CO-OPERATION WITH THE BUILDING AND CIVIL ENGINEERING INDUSTRIES

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to inform you that he has been in consultation with representatives of the Building Trade, the Civil Engineering Contractors, and the principal Professional Institutes of Architects and Engineers, who have offered him their organised help in connection with works which might be required both in peace-time and in the event of war in connection with civil defence.

The Lord Privy Seal warmly appreciates the spirit of these offers and in order to make effective use of them has set up a Civil Defence Committee of the Constructional Trades to assist and advise him on any matters affecting the industries in connection with civil defence. The Committee consists of representatives of the National Federation of Building Trades Employers and the Scottish National Federation of Building Trades Employers, the National Federation of Building Trades and Civil Engineering Operatives, the Federation of Civil Engineering Contractors, the Royal Institute of British Architects, the Incorporated Association of Architects and Surveyors, the Institution of Civil Engineers, the Institution of Structural Engineers, the Institution of Municipal and County Engineers, and the Chartered Surveyors Institution, together with representatives of the Government Departments concerned.

It appears to the Lord Privy Seal that in addition to the Central Committee, which will deal with general principles, it would be of assistance to Local Authorities if local organisations were built up on the basis of existing joint organisations of the constructional trades. If the Local Authority so desired, such a local body might suitably consist of members of the Local Authority or of such officials of the Local Authority as might be appropriate, together with such representatives of the constructional industries and the professional bodies as might be agreed upon locally. It is considered that such a body would be appropriate to each scheme-making authority.

These Local Civil Defence Committees would be able to render Local Authorities valuable assistance in peace-time in connection with such works as the construction of shelters, the protection of existing buildings, and the strengthening of basements, and in the recruitment and training of rescue parties; and the organisation of demolition work. In the event of war the local Committee could also give help in connection with the restoration of damage caused by hostilities to bridges, roads and public utility works and with essential repairs to houses, hospitals, etc.

In the carrying out of these works, it is important that disorder should not be created in the constructional industries and that there should be no exploitation of the national need. The industries propose to assist in securing these objects by obtaining comprehensive information regarding all available resources and creating a reservoir from which could be rapidly drawn equipment and services of the right kind and of sufficient extent, as a supplement, where necessary, to local resources. Local requirements would be met in the first instance by local resources, but in case of need there would be allocated to the work from the national pool such resources as were required and

available. These would be allocated by the Central Committee in consultation with the local Committees.

The Lord Privy Seal is certain that Local Authorities will wish to avail themselves of the assistance which has been offered by the industry. They are advised for this purpose to get into touch with the Secretary of the local building industry Joint Committee.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 107/1939

May 9, 1939

ISSUE OF PERSONAL PROTECTIVE EQUIPMENT FOR ROAD REPAIR PERSONNEL

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to this Department's Circular No. 4/1939, of the 17th January, 1939, regarding scales of issue of personal protective equipment, and in particular to the form indicating the allocation of responsibility for the storage of this equipment in Counties.

2. This form did not include separate space for particulars of equipment, for road, etc., repair personnel. The scale of issue of this equipment, as was notified in the circular, will be based upon numbers of personnel authorised for decontamination squads and, in the case of those Counties where all the equipment is to be stored on the charge of the County, the equipment for road, etc., repair services will be included in the issues to be made to the County as a whole.

3. In cases, however, such as your County where the equipment for decontamination squads is to be issued to individual county districts, the question of the allocation of the equipment for road, etc., repair personnel remains to be ascertained. Presumably, some of this equipment will be required for county road personnel as distinct from the personnel of county districts.

4. The equipment available for your County for road, etc., repair services, will be that for gangs of seven men (including a driver), and I am to ask that you will as soon as possible allocate these sets of equipment to the County itself and to the individual county districts within the County.

5. This opportunity may be taken of reminding your Council that the allocation of equipment for road, etc., repair services must be made to cover the requirements, if any, of sewer repair services and that joint sewerage boards, where they exist, will be expected to obtain their equipment out of the allotment to the local authorities which are constituent members of the board.

I am, Sir, etc.

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AIR RAID PRECAUTIONS ACT, 1937

May 25, 1939

PAYMENT OF GRANT IN RESPECT OF EXPENDITURE ON AIR RAID GENERAL PRECAUTIONS IN THE YEAR 1938-39

A.R.P. DEPARTMENT CIRCULAR No. 112/1939

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to enclose two copies of Form

A.R.P. 38G/3 on which should be entered particulars of the Council's expenditure on Air Raid General Precautions during the financial year 1938-39 in order that a final grant settlement may be effected in respect of that year. A memorandum containing Notes on the completion of the Form is also enclosed.

One copy of the Form when completed should, except in the case of certain Councils of County Districts and Small Burghs, be forwarded to this Department and the other copy retained by the Council. The procedure in those special cases is explained in paragraph 4 of the Memorandum.

The Department will take the necessary steps for certification of the Form by the District Auditor (or in the case of Scottish Authorities, by the Auditor appointed by the Secretary of State for Scotland).

2. Special attention is invited to Appendix G of the form in which particulars should be entered relating to timber and corrugated iron purchased for temporary trenches constructed during the September-October, 1938, emergency in so far as there were transactions on this account up to the end of the financial year. Local Authorities will be asked to furnish particulars later of the final result of the transactions in order that any necessary adjustment between them and the Department may be made in accordance with the Circulars which have been issued regarding this matter.

3. In accordance with paragraph 2 (c) of the Conditions of Grant which were notified to Local Authorities in Circular No. 701,078/27G issued in August last (in connection with a payment on account of grant for the first-half of last financial year) the payment of any grant for that year is subject to a certificate being rendered by an officer designated by the Lord Privy Seal to the effect that the air raid precautions arrangements of the authority are being satisfactorily maintained. The arrangements for referring the claim to the designated officer will be made in this Department.

4. If no expenditure has been incurred during the year a "Nil" Return should be rendered.

I am, Sir, etc.

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VOLUNTEERS FOR AIR-RAID PRECAUTIONS SERVICES AND THE AUXILIARY FIRE SERVICE

May 9, 1939

CONDITIONS OF SERVICE

AIR-RAID PRECAUTIONS DEPARTMENT CIRCULAR No. 105/1939

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to the Conditions of Service enclosed with the Air-Raid Precautions Department's circular No. 22/1939 of the 4th February, 1939, and to say that his attention has been drawn to the fact that the reference in the first Condition to natural born and naturalised British subjects has been interpreted as excluding women who have acquired British nationality by marriage. This was not the intention: and in any case where it is desired to enrol a woman who has acquired British nationality by marriage the recruiting authorities are entirely free to do so.

As regards the Auxiliary Fire Service, Condition No. 1 in Appendix 7

to the Memorandum on Emergency Fire Brigade Organisation, in its reference to British subjects, includes such women.

Various questions have been addressed to the Lord Privy Seal regarding the enrolment of aliens in Air-Raid Precautions Services and the Auxiliary Fire Service. The National Service scheme is designed to enlist the services of British subjects, and persons other than British subjects should not ordinarily be accepted. If, however, in any particular case there are special circumstances which appear to the local authority to justify an exception to the general rule, the case may be submitted for guidance as follows :

(a) *Air-Raid Precautions Services* Home Office,
Air-Raid Precautions Dept.,
Horseferry House,
Thorney Street,
London, S.W.1.

(b) *Auxiliary Fire Service*
England and Wales. Home Office,
Fire Brigades Division (B5),
Cleland House,
Page Street,
London, S.W.1.

Scotland. Scottish Office,
Dover House,
Whitehall,
London, S.W.1.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 111/1939

May 18, 1939

PRESERVATION OF SANDBAGS

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to say that it has been brought to his notice that some local authorities are being advised to arrange for sandbags in their possession to be submitted to a process of rot-proofing.

Expert advice was obtained on this matter, both at the time when the orders for the sandbags were placed by the Government and subsequently, and the Lord Privy Seal is satisfied that there is no justification for the adoption of any such process in connection with the sandbags which are being supplied by the Government to local authorities. As was stated in the schedule to circular No. 55/1939, it is part of the specification for the manufacture of these sandbags that moisture shall be eliminated as far as possible and, so far as their storage in bales is concerned, no further precautions are necessary beyond observance of the conditions of storage laid down in that schedule. It is true that sandbags after being filled and placed in position in the open will deteriorate with weather. So long as they do not have to be moved after being laid down, this deterioration is of importance only as respects the outer face of the wall or parapet,

and it can in fact be delayed by covering the exposed surfaces of the sandbags with a cement wash.

Rot-proofing of sandbags when new might be justified in a case where it was intended that the sandbags should be filled, and stored filled, to be laid in position when an emergency arose; but this is not the case in respect of any of the sandbags being issued to local authorities.

The sandbags which are being issued to local authorities by the Government free of charge remain the property of the Government, and are to be stored in the manner described in the schedule to circular No. 55/1939. They should not be rot-proofed. The cost of rot-proofing any other sandbags in the possession of the local authority will not be allowed to rank for grant under the Air Raid Precautions Act, 1937.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 114/1939

June 1, 1939

CO-OPERATION OF ANTI-AIRCRAFT UNITS AND ROYAL AIR FORCE IN A.R.P. EXERCISES AND DISPLAYS

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to the A.R.P. Department Circular 21/1939 dated the 14th February, 1939, enclosing copies of A.R.P. Memorandum No. 9—"Notes on Training and Exercises"—and to say, with reference to the instructions in the third paragraph of Part VI of that Memorandum, that the question of assistance by anti-aircraft units in local air raid precautions exercises and displays has been under consideration by the War Office. It has been decided that such assistance may be given in appropriate cases, and that participation in these exercises and displays will not be subject to the usual stipulation in regard to assistance in civilian displays that all extra expenditure be recovered. Any extra cost arising out of such assistance will be borne by the Training Grant Allotment of the Anti-Aircraft Formation concerned.

If assistance of this kind is desired in connection with an exercise or display, application should be made direct to the appropriate Command when the assistance is to be provided by a Field Force Anti-Aircraft Unit, and to the Commander, 1st Anti-Aircraft Corps, when the assistance is to be provided by A.D.G.B. Units.

The present instructions as to the method of obtaining Royal Air Force co-operation in exercises, blackouts and displays remain unchanged, i.e., details of the date, time and proposed programme should be forwarded to the A.R.P. Department at least one clear month in advance in order that the necessary arrangements may be made with the Air Ministry. Approach should not be made direct to local Royal Air Force Units.

I am, however, to inform you that, on account of the very heavy commitments of the Royal Air Force at the present time, and the importance of interfering with their normal training as little as possible, the co-operation of the Royal Air Force in exercises, black-outs and displays, will have to be limited in future to the more important occasions of this character. The Lord Privy Seal will be glad, therefore, if Local Autho-

rities will, as a general rule, confine their requests for Royal Air Force co-operation to the case of large scale exercises, etc., covering a wide area.

Further, it will facilitate arrangements and secure better air co-operation if exercises can be held in mid-week and not at a week-end. It is recognised that there may be special reasons for desiring to hold an exercise at the week-end, e.g., difficulty in securing the attendance of volunteers at any other times; and in the case of black-outs it has to be borne in mind that the Railway Companies cannot undertake to co-operate except at week-ends. Local Authorities are however asked, where possible, to select a mid-week date for exercises for which air co-operation is desired.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 121/1939

June 15, 1939

AIDS TO THE MOVEMENT OF TRAFFIC TO BE INSTALLED IN ROADS AND STREETS IN THE ABSENCE OF STREET LIGHTING

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to the Home Office Circular on Lighting Restrictions of the 14th February, 1938, and to the provisional notes on "aids to movement in darkened streets" which was issued in September, 1938. Further investigations have been made with a view to ascertaining the most practicable methods by which the movement of road traffic may be facilitated under the darkened conditions which would obtain in time of war. The main factors which have to be borne in mind are the necessity of providing the maximum amount of safety for road users and at the same time limiting illumination to a degree which would prevent detection by enemy aircraft. The accompanying memorandum has been prepared as a result of the investigations so far concluded and replaces the provisional note referred to above. A separate memorandum dealing with vehicle lighting will be issued shortly. It is of the first importance that steps should be taken forthwith to carry out the preparatory work indicated in the revised memorandum.

It is considered unnecessary to provide these "aids to movement" on every road and it has therefore been decided that in urban areas the measures described in the memorandum should apply to all classified roads and such other roads as are considered to be principal arteries of the local highway system. In rural areas they should be applied where appropriate, but the reference to painting a white line in the centre of the carriage-way should be taken to apply only to Class I roads.

Highway authorities who have not already done so, should make an immediate survey of the roads for which they are responsible and prepare a list of the roads to be dealt with together with details of the apparatus and material which they consider would be required. When this has been done, highway authorities who are scheme-making authorities under the Air Raid Precautions Act, 1937, should submit their proposals to the Department's Regional Officer for the area, and other highway authorities should submit their proposals to the appropriate scheme-making authority for similar reference to the Regional Officer. Regional Officers will be empowered to approve proposals, and the expenditure incurred in connection therewith will

rank for grant, except for trunk roads. The expenditure attributable to trunk roads should be excluded from expenditure appearing in the claim for Air Raid Precautions grant, and included in the trunk road expenditure claimed from the Ministry of Transport.

The proposals submitted to the Regional Officer should cover both trunk roads and other roads and should indicate how the estimated expenditure is apportioned between the two categories.

As soon as the Regional Officer's approval to the proposals has been given arrangements should be made to carry out the necessary preparatory work in the manner indicated in the memorandum. To this end a detailed programme should be drawn up by each highway authority setting out the work which will have to be carried out immediately on receipt of an instruction to instal "aids to movement." The programme should contain clear information on such questions as the roads to be treated, the order of priority in which the work is to be completed, and the officials to whom each specific task is allotted. The programme should be communicated to all concerned and kept up-to-date in the light of subsequent changes in the local highway system and the layout of direction signs, traffic signals, etc. The Regional Officer for the area should be informed by scheme-making authorities of any changes which involve an extension of the approved proposals.

The Lord Privy Seal relies on Local Authorities to take all measures practicable to avoid financial loss through deterioration in the stocks of white paint, which will have to be stored for "aids to movement" purposes, e.g., by way of arranging a turn-over in conjunction with stocks held for ordinary municipal services. Save in exceptional circumstances, grant will not be available in aid of the purchase of paint to replace spoilt stocks.

Further copies of the memorandum may be obtained from H.M. Stationery Office at the addresses shown on the back cover of the memorandum.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 119/1939

June 8, 1939

CO-OPERATION WITH THE CHURCHES IN RELATION TO AIR RAID PRECAUTIONS

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to say that he has recently had under consideration the position of ministers of religion in time of war.

2. The Lord Privy Seal is in entire agreement with the view put forward by representatives of the Churches, that, having regard to the need for maintaining the spiritual ministrations of the Churches in time of war, ministers of religion and others whose services may be essential for this purpose should not regard it as incumbent upon them to undertake obligation for whole-time national service in war except as chaplains in the fighting services.

3. He also recognises the desirability of permitting those ministers of religion of all denominations who desire to do so to move about in the streets under air raid conditions so far as may be practicable,

so that they may minister to those in need. It is intended to authorise the wearing by all ministers of religion of a distinctive armlet, the design of which is at present under consideration, in order to facilitate their recognition under all conditions. The Lord Privy Seal considers that ministers of religion should not be attached to any of the Local Authority's air raid precautions services, but it would, of course, be necessary for them to carry out their work in time of emergency in close co-operation and consultation with those services, in a spirit of mutual assistance. To this end, it is important that ministers of religion should have some training in air raid precautionary measures. The question what proportion of ministers of religion should receive training is in the view of the Lord Privy Seal a matter for the judgment of the Church authorities in the various denominations or for the discretion of individual ministers.

4. The Lord Privy Seal understands that in some areas arrangements have already been made between the Local Authority and the Churches for such training to be given, and he would be glad if all Local Authorities would now be prepared, on request by the various Churches, to give facilities for recognised ministers of religion of any denomination in their areas to attend certain of the ordinary courses of training organised for members of the Local Authority's air raid precautions services. It is considered that such facilities should normally include the short anti-gas course outlined in Circular No. 26/1939 of the 21st March, the short course in first aid outlined in Circular No. 16/1939 of the 26th January, and the lesson No. W1 (local air raid precautions organisation) in the syllabus of training for air raid wardens contained in A.R.P. Memorandum No. 4 (2nd edition). If the Local Authority should find it more convenient to arrange a special lecture for ministers of religion in the latter subject or a special course of lectures generally the Lord Privy Seal would have no objection to this procedure. It is desirable that ministers of religion who have attended a course of instruction on the above lines should be given a suitable certificate indicating the fact.

5. The Lord Privy Seal wishes to emphasise the desirability of close co-operation between Local Authorities and the Churches in their areas on all matters concerning the plans to be made by the Churches to meet the event of war, e.g., the protection of valuable or historic buildings or possessions. He is confident that Local Authorities will be ready to give, on request, any advice or assistance in their power to the Churches in these matters.

6. I am to take this opportunity to mention that it is not intended that buildings regularly used for religious worship should be used for air raid precautions purposes, and Local Authorities should not make any use for this purpose of such buildings or designate them for use in war-time without the full agreement of the Authorities responsible for them.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 131/1939

June 30, 1939

ENROLMENT OF A.R.P. VOLUNTEERS

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to say that he has had under

consideration certain questions that have arisen in connection with recruitment for the various Civil Defence Services.

1. *Extension of upper age limit.*

Representations have been made to the Lord Privy Seal that in many cases persons are anxious to volunteer for one or other of the air raid precaution services who are of an age above the upper age limits now shown for these services in the National Service Guide. The age limits laid down in the Guide are those which it is believed are likely to be generally appropriate, but the Lord Privy Seal desires to leave it to the discretion of recruiting authorities to accept volunteers for these services, whether for whole time or for part time duty, notwithstanding that their age may be above the upper limits so indicated, provided that in each case they are satisfied that the volunteer is suitable and fit for the duties to be undertaken.

2. *Discrepancies between age-limits laid down in A.R.P. Memoranda and the National Service Guide.*

Attention has been called to instances in which the age limits stated in the National Service Guide for particular services differ from those given in the Memoranda issued by the A.R.P. Department on particular services. In respect of wardens, for example, Memorandum No. 7 restricted appointment to "men of thirty years of age (preferably older) and women", but the National Service Guide adds that men between twenty-five and thirty may apply if not available for more active service. In the case of first aid parties the Memorandum No. 7 lays down that the personnel shall be "men over thirty years of age", whereas the National Service Guide prescribes the age as from twenty-five to fifty. In these and in any other similar cases when the lower age limit appearing in the National Service Guide is below that stated in Memoranda issued by the A.R.P. Department the age stated in the National Service Guide should be followed in enrolling volunteers. A separate circular will shortly be issued on the subject of the age-limits for youths recruited as messengers.

3. *Persons in reserved occupations volunteering for part-time service.*

Cases have arisen in which a person who is debarred from whole-time National Service by the fact that his occupation is scheduled as reserved desires to volunteer for a particular type of part-time service, but finds that he is ineligible for that service because he is below the prescribed age (e.g., a miner aged twenty-four who applies for enrolment in a first aid party). In such a case the minimum age limit may be waived, and the local authority may enrol the applicant for part-time service in any of the A.R.P. Services for which he appears to be fitted.

4. *Volunteers who cannot be accepted for a particular branch of National Service.*

The Lord Privy Seal desires to remind local authorities that in cases where a volunteer cannot be accepted for the particular branch of National Service in which he desires to enrol, it is important that he should be invited to call at the nearest Local Office of the Ministry of Labour in order that he may see if there is any other branch of National Service for which he can volunteer.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 123/1939

June 19, 1939

LONDON AIR-RAID WARDENS' SERVICE

EXPENDITURE OF COMMISSIONER OF METROPOLITAN POLICE DISTRICT

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to inform you that the Department has been considering with the Receiver of the Metropolitan Police, the financial arrangements which should be made in connection with expenditure of the Commissioner of the Metropolitan Police District on the Air-Raid Wardens' Service.

2. It is proposed that the expenditure on this Service shall be included, for purpose of precepting on the contributory authorities in the Metropolitan Police District, with the ordinary Police expenditure. A statement showing the expenditure on the Air-Raid Wardens' Service and any other air-raid precautions expenditure incurred by the Commissioner which is eligible for air-raid precautions grant will be prepared some time after the end of the financial year by the Receiver and forwarded to this Department. In so far as the expenditure included in that statement is eligible for air-raid precautions grant it will be excluded from the amount of the Metropolitan Police expenditure ranking for Police grant.

3. The expenditure so accepted by the Department for purposes of air-raid precautions grant will be apportioned in the Department between the local authorities concerned on the basis on which it was actually leviable, i.e., on rateable value, and the amount so apportioned will be added for grant calculation purposes to the air-raid precautions expenditure directly incurred during the year by those authorities as shewn in their Air-Raid Precautions Grants Claim and approved by the Department.

4. For the Counties of Essex and Middlesex some modification of this procedure will be necessary owing to the fact that the County Council of each of these Counties meets expenditure on air-raid precautions in County Districts as a county charge. These County Councils (in accordance with arrangements already informally discussed) will accordingly be notified of the amount which each District concerned has had apportioned to it as explained in the preceding paragraph in respect of air-raid precautions services, and will reimburse that amount to the District Council. The total of the amounts so reimbursed to the District Councils by the County Council will be added by the Department to the County Council's expenditure as shewn on their claim for the year and approved for grant, and grant will be calculated on the grand total.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 141/1939

July 12, 1939

TYPES OF INSTRUMENTS FOR AIR RAID WARNINGS

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to the circulars from this Department of 29th August and 6th February last (24/1939), regarding

instruments suitable for the purposes of public warnings of air raids, and to request you to inform your Council that, as a result of tests which have recently been conducted, he is satisfied that the 5 h.p. siren G.M. 4, supplied by Messrs. Klaxon Ltd., of 201, Holland Park Avenue, London, W.11, may suitably be used for this purpose.

He is informed by the firm that the prices of the instrument and wailing time control are as follows :—

400/440 volts 3 phase 50 cycles	£29 5 0
230 volts 50 cycles	£30 7 6
230 volts D.C.	£32 0 0
Wailing Time Control Model W.T.3A. 3 phase 340/440 volts	£7 5 0

For D.C. supplies from 200-480 volts the extra cost of the wailing time control is £4, and for A.C. supplies from 280-480 volts the extra cost is £8 7s. Both these depend on the sanction of the local Engineer for connecting the 5 h.p. siren direct to the line.

The firm also quote as follows for wailing time remote control models :—

400/440 volts, 3 phase, with separate triple pole 10 amp. contactor	£11 13 0
200/250 volts, single phase with separate double pole 100 amp. contactor	£18 15 0

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 146/1939

July 14, 1939

PROGRESS OF CIVIL DEFENCE MEASURES

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to A.R.P. Department Circular No. 86/1939 of 18th April about the acceleration of Civil Defence Measures and to say that he trusts that early consideration may be given by your Council to any steps necessary to secure that the progress of such measures is not delayed by any interruption of the normal machinery of local government during the holiday period.

Sir John Anderson does not consider it necessary to indicate in detail the arrangements which should be made but he regards it as essential that during the suspension of the ordinary meetings of Councils or their Committees or the absence of senior officers on leave, there should be such delegation of authority or other appropriate arrangements as will avoid delay in the submission and approval of proposals (e.g., for the construction of buildings) or in carrying them into effect when they are approved.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 142/1939

July 13, 1939

REVISED EDITION OF MEMORANDUM No. 2

"RESCUE PARTIES AND CLEARANCE OF DEBRIS"

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to enclose herewith a revised edition

of Memorandum No. 2 entitled "Rescue Parties and Clearance of Debris". The principal points in the present edition which are new and to which it is desired to invite the special attention of the local authority are as follows :—

(1) Of the services covered by this Memorandum the rescue party service only (light and heavy parties) will be organised as an air raid precautions service under local authorities. Demolition work (other than minor and urgent cases dealt with by rescue parties) and repair work of all kinds will be in the hands of contractors or of public utilities or of the departments of the local authority, in accordance with the arrangements for handling corresponding work in peace time.

(2) As has already been indicated in Circular No. 104/1939, the Lord Privy Seal has been in consultation with representatives of the building trade and of civil engineering contractors and other bodies, and it has been agreed that the trade will be willing to assist in the recruitment and training of rescue parties by forming groups of men for this purpose within the firms and affording to them the necessary technical training. It is of great importance that rescue parties should consist of men trained as a team and accustomed to working with one another, as well as that they should be men with experience of building operations, and the Lord Privy Seal hopes that local authorities will freely take advantage wherever the local rescue party organisation has not yet been completed, of the arrangements suggested.

Where arrangements of this kind are made, the technical training will normally be given in paid time, and in return for the assistance given by the employers it will be necessary for local authorities to be prepared on request to reimburse them (in whole or in part) for the wages thus paid for unremunerative work. Such expenditure will rank for grant. Where rescue parties have already been organised on other lines, the local authority will be responsible for the technical training, as it will be in all cases for the anti-gas and first-aid training. In this case, local authorities may, where necessary, employ a special instructor, who will normally be connected with the building trade, to give the technical training. Should it prove necessary to make any payment to the instructor, regard should be had in fixing the payment to any trade rates which may be relevant, but the fee paid should not in any case exceed 10s. 6d. for an instructional "session" of at least one hour's duration. Reasonable expenditure on the payment of such fees will rank for grant.

(3) The trade will also be prepared to help in arranging in advance that personnel and equipment are available for demolition and repair work so far as they will be required to perform these services in war time. Local authorities should review and organise in advance the arrangements which will be made in war time for all work of this kind, and in particular should arrange for co-ordination in war time between the different organisations involved, which will include in many cases departments of the local authority, public utility undertakings, and outside contractors.

(4) It will be observed that the number of men in the light rescue party has been increased from six to ten not including drivers. It is recognised that local authorities may need to make provision for additional vehicles and drivers. In earmarking any additional vehicles which are required, the instructions given in Circular No. 60/1939 should be followed.

(5) It will also be observed that it has been decided to include in

each light rescue party four men trained and equipped to render first aid. The equipment required for this purpose is indicated in Appendix "B" to the Memorandum. The arrangements for the supply of the equipment will be notified to local authorities in a separate circular.

(6) In connection with the suggestion in Part I, section 5, of the Memorandum that a proportion of the equipment held by contractors should be earmarked for use by rescue parties in war, it should be noted that it is important that such equipment should always be made available to the contractors as soon as possible after use in order to avoid unnecessary delay to other essential work which the contractors may be required to do in connection with defence or for general purposes.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 127/1939

June 27, 1939

ELECTRIC HAND LAMPS FOR WARDENS' POSTS

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to this Department's circular No. 38/1939 regarding the central purchase of certain articles of equipment for wardens' posts, and to request you to inform your Council that tenders have now been received for the supply of electric hand lamps (in lieu of torches) for wardens' posts.

The lamps are a slight adaptation of the standard type sold as bicycle lamps, with a cowl which is held in position by the screw cap in front of the glass and which shields the light in a manner complying with the proposed regulations on lighting restrictions. The lamp takes the standard batteries, which are readily available all over the country. A clip is provided inside the lid for carrying a spare bulb. The back of the lamp is fitted with a clip which will fit over a belt if worn; and, in addition, two loops are provided by which the lamp can be slung at the waist with two pieces of cord or string, one round the neck and the other round the waist.

Lamps of the same type will be supplied by the Department for other air raid precautions services, as is being notified in a separate circular.

The prices will not exceed the following :—

Lamp bodies (without bulb)	..	..	1s. 8d. each
Cowls .. .. .	..	..	2½d. "
Batteries .. .. .	..	..	3d. "
Bulbs .. .. .	..	..	1s. 3d. a dozen

If your Council wish to obtain any of these lamps at the above prices, up to a number not exceeding 60 per cent. of the authorised establishment of wardens (excluding reserve wardens), I am to ask that you will forward as soon as possible specific confirmation of the quantities required together with the address to which they are to be sent. The 60 per cent. quoted above should govern the number of lamps and cowls asked for; batteries may be ordered in the proportion of 1 per lamp, and bulbs in the proportion of 2 per lamp. If your Council so desire, these lamps may be purchased to replace any torches of unsuitable type which may have been purchased in the past for the

wardens' service, the latter being retained for use in night exercises, etc., or use indoors. Certain contracts for supply are being placed by His Majesty's Office of Works and deliveries may be expected to commence in August; but both to enable the contracts for the full amounts to be placed, and to ensure early supply to your Council, I am to ask that your Council's requisition may be forwarded as quickly as possible.

Following the receipt of your order, an advice will be forwarded to you by the Office of Works showing the name of the contractor(s), the terms of purchase, and the date upon which the order for your supply was placed. This advice note must be returned to the Office of Works, signed, after the receipt of the goods.

An invoice for the goods will be forwarded to you by the contractor and payment will be made by your Council direct to him (upon receipt of the goods), in accordance with the terms notified by the Office of Works. The payment will rank for grant.

In Counties, it is assumed that the order will be placed by the County Council except in the case of authorities within the Metropolitan Police District, and those cases elsewhere where the cost of the wardens' service is being borne by county districts. In those cases (outside the Metropolitan Police District) the County is asked to communicate the above particulars to the county district, to whom this circular is not being sent.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 122/1939

June 15, 1939

BLEACH POWDER

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to this Department's circular No. 90/1939 of the 24th April, 1939, and to communicate the following information regarding the scales on which bleach powder will be issued.

2. Bleach powder will be required, in greater or less quantities, for—

(a) Decontamination of streets, etc., and the exterior of buildings.

(b) Decontamination of vehicles.

(c) Decontamination within buildings.

(d) Decontamination of boots, equipment, etc., of air raid precautions personnel returning to stations or depots, and similarly at hospitals.

3. To meet these requirements there should be dispositions of bleach powder in time of emergency more or less on the following scale—

At each depot of decontamination squads	6 to 10 cwt. per squad.
At each public depot for the decontamination of vehicles	10 cwt.
At each other depot (e.g., of first aid parties, rescue parties)	$\frac{1}{2}$ cwt. per 25 men based on the depot.
At each first aid post	$\frac{1}{2}$ to 2 cwt.
At each hospital coming within the emergency scheme	1 to $1\frac{1}{2}$ cwt. per 50 beds.
At each fire station and auxiliary fire station on which 6 or more appliances are based	1 cwt.

4. A substantial amount of these requirements has been provided by the 10 cwt. or 15 cwt. per decontamination squad referred to in circular No. 90/1939. These issues are in process of being completed, and when that has been done, further issues will be made which will enable the above dispositions to be completed and a local reserve to be formed.

5. The total quantity which will be issued to your authority, including all past issues, will be brought up by instalments to about cwt. In the case of counties in which the previous issues have been made to county districts the further issues now contemplated will be sent to the county council, in order that a county reserve may be formed.

6. The quantities required by hospitals should be handed over to them in advance of an emergency, to be stored as part of the emergency stores provided by the Government. In county areas this will be a responsibility of the county council.

7. In county areas the county council will also be responsible for seeing that supplies are available in county districts for fire stations and auxiliary fire stations. Where the previous or current issues have been or are being made to county districts, those supplies should be sufficient. Where these supplies have all gone to the county council, it will now be for the county council to make a distribution to county districts for fire brigade purposes. Separate arrangements are being made for bleach powder for important police stations.

8. The new supplies will be in 1 cwt. drums with a small proportion of $\frac{1}{2}$ cwt. drums. The latter are intended for small depots and establishments, and the requirements of such places should not be fulfilled except in emergency, until the $\frac{1}{2}$ cwt. drums are received. The 3 cwt. or 4 cwt. drums of the earlier issues, last autumn, should so far as possible be concentrated in the large decontamination depots, accommodating 4 or more decontamination squads, so that when opened they would be likely to be used within a reasonable time, and would not be left open to deteriorate.

9. This circular is addressed to the Councils of Counties (except the London County Council), County Boroughs and Large Burghs and county districts empowered to prepare air raid general precautions schemes; but copies (without the insertion of any figure of quantity in paragraph 5) are being sent for information to Councils of all other county districts and small burghs.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 128/1939

June 27, 1939

ELECTRIC HAND LAMPS FOR THE PERSONNEL OF AIR RAID PRECAUTIONS SERVICES

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to request you to inform your Council that the Government will supply to local authorities, free of charge, electric hand lamps for the personnel of the air raid precautions services referred to below.

The lamps will be a slight adaptation of the standard type sold as bicycle lamps, with a cowl which is held in position by the screw cap in front of the glass and which shields the light in a manner com-

plying with the proposed regulations on lighting restrictions. The lamp takes the standard battery and bulb which are readily available all over the country. A clip is provided inside the lid for carrying a spare bulb. The back of the lamp is fitted with a clip which will fit over a belt; and, in addition, two loops are provided by which the lamp can be slung at the waist with two pieces of cord or string, one round the neck and the other round the waist.

The number of lamps which will be supplied to each scheme-making authority will be sufficient to enable one lamp to be issued to each member of the following services on the basis of the authorised war establishment (excluding reserves, and excluding also members of relief parties in those areas where some services are to be organised in two complete reliefs) :—

First Aid Parties	(including drivers)
Rescue Parties	(" ")
Decontamination Squads	(" ")

In addition one lamp will be provided for each messenger, one per car for sitting casualties, and two per ambulance vehicle. The number of the lamps, bulbs, and cowl to be supplied will include a small margin above exact requirements.

As regards batteries, the average life of which whether used or not is not great, it is proposed that the initial issue should not exceed 50 per cent. of the issue of lamps. Provided reasonable economy is observed, these may be used as required in exercises, and they will also form a nucleus for use in the event of war. Completion of requirements on the onset of an emergency, and replacement of the initial issue both of batteries and bulbs, will be left to local purchase, and reasonable expenditure incurred in this connection will rank for grant. Care should be taken to ensure that bulbs which are purchased locally are of the same capacity as those which will be supplied by the Government, i.e., of 2.5 volts and 0.3 amperes. Batteries should be stored in a dry atmosphere and protection afforded against frost.

Issues will be made in instalments as supplies become available and I am to request that you will complete and return to this Department as soon as possible the attached form* indicating the address to which the lamps should be sent. (Consignments cannot be divided for delivery to more than one address.)

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 133/1939

July 4, 1939.

CO-OPERATION WITH INDUSTRY

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to the Home Office circular dated 31st May, 1937, issued under Reference No. 701,092/14 and to say that he has had under further consideration the assistance which local authorities can usefully provide in the case of industrial and commercial establishments on which obligations are proposed to be placed by the Civil Defence Bill now before Parliament.

2. Under the provisions of the Bill the duty of taking measures to train and equip a suitable proportion of employees to give first aid

* Not suitable for reproduction.

treatment, to deal with the effects of gas and to fight fires devolves on every employer of more than thirty persons in any factory premises, commercial building, or mine as defined in the Bill.

3. In the case of some of the larger industrial, etc., establishments, instructors who have qualified at the Home Office Air Raid Precautions Schools are already available to give the necessary training in anti-gas and incendiary bomb control to the personnel of the A.R.P. Parties organised for such establishments; but it is anticipated that for the most part employers will look to the local authorities to provide the facilities for this training. The Lord Privy Seal would, therefore, ask that local authorities should do all they can to comply with any requests which may be made to them for the provision of such facilities, whether (a) by training personnel to act as instructors (L.A.R.P.) in industrial and commercial establishments, or (b) by making the qualified instructors of the Authority available for the special instruction of the A.R.P. personnel of such establishments, or (c) by including such personnel in the current courses of training which are being conducted for the Authority's own A.R.P. Services.

4. Where the steps taken to carry out this instruction involve the Local Authority in expenditure which they would not otherwise have incurred, such expenditure incurred by the Local Authority in connection with the training of instructors or otherwise in providing instruction for the personnel of any such establishment, will be repayable by the employer concerned by arrangement with the Local Authority. Receipts from this source should be brought to account in the Authority's grant claims.

5. I am to explain that it will not be compatible with the obligations placed upon employers under the Bill that their employees should in future as has hitherto been the practice in some areas be required to become members of the Local Authorities' Service (e.g., as Air Raid Wardens) as a condition precedent to their being trained under the auspices of the Local Authority in A.R.P. duties.

At the same time, while the firm will have the first claim on members of their squads during working hours, it will continue to be open to any such member to volunteer with his Local Authority for part time service outside working hours.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 134/1939

July 7, 1939

DEPOT ACCOMMODATION

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to refer to A.R.P. Department Circular No. 56/1939 and to offer the following observations for the guidance of local authorities on the subject of depot accommodation, including the arrangements to be made for sleeping and messing.

Decontamination squads and repair parties will normally work in 8- or 12-hour shifts and will not require sleeping accommodation, but the question of providing such accommodation for rescue and first aid party personnel arises in the areas in which these parties work on the 24-hour relief basis, and messing accommodation will be required for all four classes of personnel.

It should normally be possible to make the necessary provision for

sleeping and messing in the existing Depot buildings or in neighbouring buildings, and the Lord Privy Seal will only be prepared to consider for grant expenditure upon new construction, where he is satisfied that provision cannot be made without it in existing buildings and that it is impossible to billet personnel within easy call (say 300-400 yards) of the Depot.

Reasonable expenditure upon the adaptation and equipment of an existing building belonging to the local authority, whether or not it is being used in peace-time for A.R.P. purposes, will be considered for grant, but any approval of special construction will be conditional upon its serving an A.R.P. purpose in peace-time, except where it is impossible to billet personnel within easy call.

As regards the scale on which sleeping and messing provision is to be made in new buildings, the Lord Privy Seal is prepared to agree to sleeping accommodation on the basis of 14 square feet per head, for not more than half the total personnel on 24-hour duty at any one time. (This assumes that bunks will be built in two tiers.) Messing and standing-by accommodation may be provided at the rate of 12 square feet per head for 75 per cent. of the total personnel on duty at the Depot at any one time. In existing buildings provision on a somewhat larger scale may be possible; and in this connection some local authorities may wish to provide camp beds for A.R.P. personnel and the question of central purchase of such beds is under consideration.

As regards messing, it will be necessary to provide facilities for parties standing-by for duty at depots to obtain food at reasonable prices. A number of individual local authorities have already had this problem under examination, and the Lord Privy Seal would ask that authorities who have not already done so should explore the possibilities of making suitable arrangements to this end, e.g., with catering firms or otherwise, and should also consider arranging for simple facilities for heating food to be available.

It should not normally be necessary to provide protection for sleeping and messing accommodation where the depot itself possesses the necessary standard of blast and splinter proof protection, e.g., where the depot incorporates a cleansing station built to the Department's specification, as in the event of an air raid any personnel temporarily occupying the sleeping or messing accommodation would be expected to take shelter in the main building. Any such accommodation provided by new construction should accordingly be limited to construction of a semi-permanent nature.

The Lord Privy Seal would also take this opportunity to say that, where the provision of the necessary measure of protection to an existing building presents difficulties due to its peace-time use, authorities may consider the possibility of providing on adjoining ground where available refuges of steel, brick or concrete construction.

In conclusion I am to say that the Lord Privy Seal considers it of importance that depot accommodation should be provided for the war establishment of personnel allotted in A.R.P. Department Circular No. 1/1939 as soon as possible on the lines indicated in this Circular and Circular No. 56/1939, and, when agreement as to the siting of depots has been reached, plans for any necessary adaptation of buildings should be submitted at the earliest possible date, where this has not already been done.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 138/1939

July 11, 1939

THE AIR RAID WARNING SYSTEM

SIR,—I am directed by the Lord Privy Seal, in the exercise of the powers of the Secretary of State, to inform you that, following representation from the other Departments concerned, it is considered necessary, for the better working of the Warning System to amend in some respects the present division of the country for Warning purposes. At a date to be announced shortly, the Warning Districts will be re-constituted as shown in the Appendix to this circular.

2. For the purpose of telephone administration, the country is divided into Telephone Groups, each with a Group Centre Exchange, and every local telephone exchange receives trunk calls from a distance via its Group Centre Exchange. The Group Centre Exchange would be the first Exchange in any group to receive the warning message originated by the national source of messages, and would be responsible for transmitting the warning message, either direct or through local exchanges, to the individual recipients.

3. In general, the revised Warning Districts are comprised of one or more complete Telephone Groups. In certain cases, as shown in Columns (2) and (4) of Appendix II, it has been found necessary to separate a number of exchanges from their normal Telephone Groups. The responsible Post Office Official with whom Co-ordinating Chief Constables should communicate is the District or Telephone Manager of the Area, indicated in Column (2) of Appendix II.

4. The preparation of the lists for all classes of recipients in each police district remains the responsibility of the Chief Constable, subject to general directions given by the Lord Privy Seal. (Home Office Circular 700,221/99 of the 23rd May, 1938, and subsequent instructions from this Department refer.) The co-ordination of the Lists and the completion of necessary arrangements with the Telephone Manager, will continue to be the responsibility of one Chief Constable for each Group or part of a Group. These Chief Constables are specified in Column (3) of the Appendix.

5. As, in general, Telephone Groups are not being divided, few changes should be necessary but in order to avoid misunderstanding, each Co-ordinating Chief Constable should ascertain from the Telephone Manager(s) concerned whether or not there are alterations.

6. Where necessary the Co-ordinating Chief Constable should obtain revised lists of recipients from the other Chief Constables concerned. Where there are no changes in any Telephone Group, the Co-ordinating Chief Constable should advise the other Chief Constables concerned to this effect. Each Chief Constable should then amend his list of recipients as may be necessary to implement the changes in the Warning Districts, and send a copy to the Co-ordinating Chief Constable(s) concerned.

7. In order that lists of persons to receive the warning messages may be ready for use in telephone exchanges when the revised Warning Districts are brought into operation, it is necessary that, where changes are involved, revised lists of recipients should be forwarded by Co-ordinating Chief Constables to the Telephone Managers concerned as early as possible. These revised lists should be prepared in accord-

ance with the Home Office Circulars 700,221/99 of the 23rd May, 1938 (paras. 16—21), and 700,221/105 of the 13th September, 1938.

8. Where one recipient is entitled to inclusion in either the "Special" or "Action" Warning List, or both, in more than one category, the entry in each list should be made in respect of the highest priority only. For example, an Electricity Generating Station at which a Public Warning Signal is operated should receive priority 2 in the Special Warning List and priority 1 in the Action Warning List. In a case of this sort, the instructions for recipients should draw attention to the special care that will be necessary to ensure that the siren is not sounded when the preliminary caution is received.

9. Detailed information regarding the telephone exchanges included in each Warning District is not being communicated to local authorities. A second Edition of A.R.P. Memorandum No. 8 on the Warning System will be issued shortly, and in it the councils of counties, county boroughs and large burghs will be again advised to apply to the Chief Constables concerned for information as to the Warning Districts in which their area is situated. This information should be given when requested, and, in the case of counties which lie in more than one Warning District, the Chief Constable should supply the county council with a map showing how the county is divided between Warning Districts. (The boundary between two Telephone Groups which are within the same Warning District need not be shown.)

10. The boundaries between Telephone Groups and between Warning Districts are not in themselves a matter of secrecy, and accordingly it is stated in A.R.P. Memorandum No. 8 that other persons besides officials of the local authorities mentioned above may enquire of Chief Constables for confirmation of the Warning Districts in which they are situated. Chief Constables should give the information asked for unless they have any reason to think that the enquiry is frivolous or *mala fide*.

11. The Telephone Manager and the Home Office A.R.P. Department should be advised of all changes in the Warning Lists which may become necessary in the future. Co-ordinating Chief Constables should, however, bear in mind that a single change in the Warning Lists involves a considerable amount of work by the Post Office staff. Discretion may therefore be exercised in delaying notification of unimportant alterations for a short period if this would enable a number of changes to be effective at one time.

12. It should be noted that from the time that Control Centres (other than sub-area Control Centres in County Boroughs) are staffed on a 24-hour basis, they will be the appropriate points for the reception of Warning Messages sent to A.R.P. Headquarters under the arrangements laid down in A.R.P. Memorandum No. 8 (1st Edition). Therefore, as soon as a Control Centre has been selected and equipped the telephone number of the exchange line allotted to the Officer-in-Charge of the Control Centre should be included in the Warning List in place of the number of the peace-time A.R.P. Headquarters.

13. It is desirable that any telephone lines which are installed specially for Air Raid Warning Purposes, and which normally remain unused in peace-time, should be tested at least once monthly, and when Chief Constables are aware that such lines exist, they should advise the recipient accordingly.

14. Chief Constables should request recipients to acknowledge the receipt of Warning Messages by repeating the message; i.e., when the Operator gives the message "Air Raid Message Yellow" the

recipient should acknowledge by saying "Air Raid Message Yellow," and similarly with the other Warning Messages. When a Memorandum of instructions for recipients is issued as recommended in paragraph 41 of Police War Instructions, Section II (2nd Edition), on the lines of Appendix D of that section, it is desirable that a note to this effect should be added to Rule 1 of the Memorandum.

I am, Sir, etc.

APPENDIX

COMPOSITION OF THE WARNING DISTRICTS

Warning District.	Telephone Groups or parts of Groups included in Warning District.	Chief Constable nominated to co-ordinate Warning Lists in each Group or part of a Group.	Telephone/District Manager responsible for the distribution of warning messages.	Remarks.
(1)	(2)	(3)	(4)	(5)
		I.—ENGLAND AND WALES.		
Aberystwyth	Aberystwyth Machynlleth	C.C., Cardigan C.C., Merioneth	D.M., Chester ,,	— —
Aylesbury	Aylesbury	C.C., Bucks	D.M., South Midland	—
	Banbury (part) London (part)	,, ,,	,, ,,	Buckingham and Lillingstone Dayrell exchanges only. Exchanges which will form the Berkhampstead Group to- gether with Amersham, Beaconsfield, Chalfont St. Giles, Chesham, Cholesbury, Great Missenden, Hampden Row, High Wycombe, Hol- mer Green, Jordans, King- ston Blount, Lane End, Little Chalfont, Naphill, Penn, Princes Risboro', Rad- nage, The Lee and Wen- dover exchanges.
Banbury	Banbury (part)	C.C., Northants	D.M., South Midland	The whole group except Buck- ingham and Lillingstone Dayrell exchanges.
Bangor	Bangor Caernarvon Portmadoc	C.C., Caernarvon ,, ,,	D.M., Chester ,, ,, ,,	— — —
Barnstaple	Barnstaple	C.C., Devon	D.M., Western	—
Barrow	Barrow Lancaster	C.C., Barrow- in-Furness C.C., Lancs	T.M., Lancaster ,,	— —
Basingstoke	Basingstoke Andover Newbury (part) Winchester	C.C., Hants ,, ,, ,,	T.M., Guildford D.M., South- ampton ,, ,,	— — Linkenholt and Oxenwood exchanges only. —
Bedford	Bedford Hitchin Luton	C.C., Bedford- shire ,, ,,	D.M., South Midland ,, ,,	— — —

Warning District.	Telephone Groups or parts of Groups included in Warning District.	Chief Constable nominated to co-ordinate Warning Lists in each Group or part of a Group.	Telephone District Manager responsible for the distribution of warning messages.	Remarks.
(1)	(2)	(3)	(4)	(5)
I.—ENGLAND AND WALES—(Contd.)				
Berwick	Berwick Newcastle (part)	C.C., North- umberland "	T.M., Newcastle "	— Exchanges which will form the Alnwick group.
Birmingham	Birmingham (part)	C.C., Birming- ham	T.M., Birming- ham	The Birmingham group except those exchanges included in the Evesham, Hereford, Stoke-on-Trent and Wolver- hampton warning districts.
Blackburn	Blackburn Burnley	C.C., Lanes "	T.M., Blackburn "	— —
Boston	Boston Grantham Skegness (part) Spalding	C.C., Lincs " " "	T.M., Peter- borough " " "	— — The whole group except Sutton-on-Sea exchange. —
Bourne- mouth	Bourne- mouth Boscombe	C.C., Dorset "	T.M., Bourne- mouth "	— —
Bradford	Leeds (part)	C.C., West Riding	T.M., Bradford	Exchanges which will form the Bradford and Skipton groups.
Brecon	Brecon Merthyr Tydfil	C.C., Brecon C.C., Glamorgan	T.M., Cardiff "	— —
Brighton	Brighton (part) Eastbourne Worthing	C.C., E. Sussex " C.C., W. Sussex	T.M., Brighton " "	The whole group except those exchanges in the Horsham warning district. — —
Bristol	Bristol (part) Frome	C.C., Somerset "	T.M., Bristol "	The whole group except those exchanges in the Devizes and Gloucester warning districts. —
Bury St. Edmunds	Bury St. Edmunds	C.C., W. Suffolk	T.M., Cambridge	—
Cambridge	Cambridge Newmarket	C.C., Cam- bridgeshire C.C., W. Suffolk	T.M., Cambridge "	— —
Canterbury	Canterbury Ashford Dover Folkestone Margate Tunbridge Wells (part)	C.C., Kent " " " " "	D.M., Canter- bury " " " " "	— — — — — Smarden and Tenterden ex- changes only.

Warning District.	Telephone Groups or parts of Groups included in Warning District.	Chief Constable nominated to co-ordinate Warning Lists in each Group or part of a Group.	Telephone/District Manager responsible for the distribution of warning messages.	Remarks.
(1)	(2)	(3)	(4)	(5)
I.—ENGLAND AND WALES—(Contd.)				
Cardiff	Cardiff	C.C., Glamorgan	T.M., Cardiff	—
Carlisle	Carlisle (part)	C.C., Cumberland and Westmorland	T.M., Lancaster	The whole group except Allonby, Brigham, Gretna, Maryport and Workington exchanges.
Carmarthen	Carmarthen	C.C., Carmarthenshire	T.M., Swansea	—
Chelmsford	Chelmsford	C.C., Essex	T.M., Southend	—
	London (part)	"	"	Wickford exchange only.
	Southend-on-Sea	"	"	—
Cheltenham	Cheltenham	C.C., Gloucestershire	D.M., Gloucester	—
	Gloucester (part)	"	"	Ashton Keynes, Bibury, Cirencester, Coln St. Aldwyns, Fairford, Fossebridge, Kemble, Kempford, North Cerny, Poulton and South Cerny exchange only.
Chester	Chester (part)	C.C., Cheshire	D.M., Chester	The whole group except Hampton, Malpas, Nomans Heath and Threapwood exchanges.
Colchester	Colchester	C.C., Essex	T.M., Colchester	—
Colwyn Bay	Colwyn Bay Rhyl	C.C., Denbigh	D.M., Chester	—
		"	"	—
Coventry	Coventry	C.C., Warwickshire	T.M., Coventry	—
Crewe	Crewe	C.C., Cheshire	D.M., Chester	—
	Northwich	"	T.M., Manchester	—
Derby	Derby	C.C., Derbyshire	T.M., Nottingham	—
	Burton-on-Trent	C.C., Staffs.	T.M., Leicester	—
	Leicester (part)	"	"	Ashby-de-la-Zouch exchange only.
Devizes	Devizes	C.C., Wilts.	T.M., Bristol	—
	Bristol (part)	"	"	Brinkworth, Crudwell, Mahmesbury and Minety exchanges only.
	Chippenham	"	"	—

Warning District.	Telephone Groups or parts of Groups included in Warning District.	Chief Constable nominated to co-ordinate Warning Lists in each Group or part of a Group.	Telephone/District Manager responsible for the distribution of warning messages.	Remarks.
(1)	(2)	(3)	(4)	(5)
I.—ENGLAND AND WALES—(Contd.)				
Doncaster	Doncaster (part)	C.C., West Riding	T.M., Lincoln	The whole group except Garthorpe, South Elmsall and Upton exchanges.
	Gainsborough	C.C., Lincs.	"	—
	Leeds (part)	C.C., West Riding	"	Eastoft, Eastington, Goole, Howden, Laxton, Rawcliffe, Reedness and Snaith exchanges only.
	Sheffield (part)	C.C., Notts.	"	Garnston, Rampton, Ranskill, Retford, Sturton-le-Steeple and Wiseton exchanges only.
Douglas	Douglas	See remarks	T.M., Liverpool	The Lieutenant Governor of the I. of M. is responsible for the preparation of the warning lists.
Evesham	Evesham	C.C., Worcestershire	T.M., Birmingham	—
	Birmingham (part)	"	"	Exchanges which will form the Worcester group.
Exeter	Exeter	C.C., Devon	D.M., Western	—
	Torquay	"	"	—
Gloucester	Gloucester (part)	C.C., Gloucester	D.M., Gloucester	The whole group except those exchanges in the Cheltenham and Hereford warning districts.
	Bristol (part)	"	"	Exchanges which will form the Dursley group.
Grimsby	Grimsby	C.C., Lincs.	T.M., Lincoln	—
	Doncaster (part)	"	"	Garthorpe exchange only.
	Scunthorpe	"	"	—
Guildford	Guildford	C.C., Surrey	T.M., Guildford	—
	Aldershot	C.C., Hants.	"	—
	Haslemere	C.C., Surrey	"	—
	London (part)	"	Regional Director, London Telecommunications Region	Byfleet, Chertsey, Chobham, Longcross, Ottershaw, Walton-on-Thames and Weybridge exchanges only.
Harrogate	Leeds (part)	C.C., West Riding	T.M., York	Exchanges including, and to the north and east of, Middlesmoor, Ramsgill, Pateley Bridge, Darley, Harrogate, Starbeck and Green Hammerton.
	North-allerton (part)	C.C., North Riding	"	Hutton Sessey, Kirby, Wiske, Sinderby, Sutton, Thirsk, Topcliffe and Upsall exchanges only.

Warning District.	Telephone Groups or parts of Groups included in Warning District.	Chief Constable nominated to co-ordinate Warning Lists in each Group or part of a Group.	Telephone/District Manager responsible for the distribution of warning messages.	Remarks.
(1)	(2)	(3)	(4)	(5)
I.—ENGLAND AND WALES—(Contd.)				
Hereford	Hereford Birmingham (part) Gloucester (part)	C.C., Hereford C.C., Salop C.C., Hereford	D.M., Gloucester " "	— Those exchanges which will form the Ludlow group. Bosbury, Eastnor, Fromes Hill, Goresley, Harewood End, How Capel, Lea, Ledbury, Llangarron, Much Marele, Peterstow, Ross-on-Wye, Trumpet, and Upton Bishop exchanges only.
Horsham	Horsham Brighton (part)	C.C., West Sussex C.C., East Sussex	T.M., Brighton "	— Ardingly, Balcombe, Bolney, Cuckfield, Haywards Heath, Lindfield, Newick, Seaynes Hill, Warninglid and Wivelsfield Green exchanges only.
Huddersfield	Huddersfield Halifax	C.C., West Riding "	T.M., Bradford "	— —
Hull	Hull	C.C., East Riding	T.M., York	—
Ipswich	Ipswich	C.C., East Suffolk	T.M., Colchester	—
Kings Lynn	Kings Lynn Wisbech	C.C., Norfolk C.C., Isle of Ely	T.M., Cambridge T.M., Peterborough	— —
Leeds	Leeds (part) Doncaster (part)	C.C., West Riding " "	T.M., Leeds " "	The Leeds group except those exchanges in the Bradford, Doncaster, Harrogate and York warning districts. South Elmsall and Upton exchanges only.
Leicester	Leicester (part) Kettering Market Harborough Melton Mowbray Oakham Peterborough (part)	C.C., Leicester-shire C.C., Northants C.C., Leicester-shire " C.C., Rutland C.C., Northants	T.M., Leicester " " " " "	The whole group except Ashby-de-la-Zouch exchange. — — — — Bythorn, Clapton, Lowick and Thrapston exchanges only.
Lincoln	Lincoln Skegness (part)	C.C., Lincs "	T.M., Lincoln "	— Sutton-on-Sea exchange only.
Liverpool	Liverpool (part) Warrington	C.C., Lancs. "	T.M., Liverpool "	Excluding those exchanges in the Preston warning district. —

Warning District.	Telephone Groups or parts of Groups included in Warning District.	Chief Constable nominated to co-ordinate Warning Lists in each Group or part of a Group.	Telephone/District Manager responsible for the distribution of warning messages.	Remarks.
(1)	(2)	(3)	(4)	(5)
I.—ENGLAND AND WALES—(Contd.)				
London (Central)	London (part)	Commissioner of Police of the Metro-polis	Regional Director, London Telecommunications Region	Exchanges in the London 15-mile circle (except Walton-on-Thames) together with Billericay, Blackmore, Brentwood, Chorley Wood, Coptie Green, Dartford, Denham, Egham, Essenden, Farningham, Fulmer, Garston, Gerrards Cross, Gravesend, Greenhithe, Harefield, Hatfield, Herongate, Hoddesdon, Hornchurch, Ingatestone, Ingrebourne, Iver, Kings Langley, Laindon, Longfield, Meopham, Nazeing, Orsett, Rickmansworth, Shorne, Southfleet, South Ockenden, Staines, Stanfords-le-Hope, Stapleford, Stock, Swanley Junction, Tilbury, Upminster, West Ash, West Kingsdown and Wraysbury exchanges.
London (North)	London (part)	C.C., Herts.	Regional Director London Telecommunications Region	Colney Heath, Harpenden, Kimpton, London Colney, Park Street, Redbourne, St. Albans, Tewin, Welwyn, Welwyn Garden and Wheat-hamstead exchanges.
	"	"	T.M., Cambridge	Those exchanges which will form the Hertford group.
	"	"	"	Albury, Bishops Stortford, Brent Pelham, Epping, Fyfield, Harlow, Hatfield Broad Oak, Henham, Matching, Moreton, Much Hadham, North Weald, Ongar, Potters Street, Sawbridgeworth, Stanstead, Takely and White Roding exchanges.
	Chelmsford (part)	C.C., Essex	"	Dunmore, Felstead, Great Easton, Stebbing and Thaxted exchanges only.
London (South)	London (part)	C.C., Surrey	Regional Director London Telecommunications Region	Ashted, Betchworth, Biggin Hill, Bletchingley, Bookham, Borough Green, Brasted, Caterham, Chevening, Cobham (Surrey), Crockham Hill, Dawesgreen, East Horsley, Edenbridge, Four Elms, Godstone, Headley, Hildenborough, Horley, Ide Hill, Knockholt, Leatherhead, Limpsfield, Chart, Mersham, Norwood Hill, Nutfield Ridge, Otford, Oxshott, Oxted, Plaxtol, Redhill, Reigate, Seal, Sevenoaks, Smallfield, Tatsfield, Weald, Westerham and Woldingham exchanges.

Warning District.	Telephone Groups or parts of Groups included in Warning District.	Chief Constable nominated to co-ordinate Warning Lists in each Group or part of a Group.	Telephone/District Manager responsible for the distribution of warning messages.	Remarks.
(1)	(2)	(3)	(4)	(5)
I.—ENGLAND AND WALES—(Contd.)				
London (South) —contd.	Dorking	C.C., Surrey	T.M., Brighton	—
	East Grinstead	C.C., East Sussex	T.M., Tunbridge Wells	—
Macclesfield	Macclesfield	C.C., Cheshire	T.M., Manchester	—
	Manchester (part)	"	"	Buxton, Chapel-en-le-Frith, Chinley, Hartington, Longnor, Taddington, Tideswell and Whaley Bridge exchanges only.
Maidstone	Maidstone	C.C., Kent	D.M., Canterbury	—
	Chatham	"	"	—
Manchester	Manchester (part)	C.C., Lancs.	T.M., Manchester	The whole group except those exchanges included in the Macclesfield warning district.
	Rochdale	"	T.M., Blackburn	—
Middlesbrough	Middlesbrough	C.C., North Riding	T.M., Middlesbrough	—
	Bishop Auckland	C.C., Durham	"	—
	Darlington	"	"	—
	Northallerton (part)	C.C., North Riding	"	The whole group except those exchanges in the Harrogate warning district.
Milford Haven	Milford Haven	C.C., Pembroke	T.M., Swansea	—
Newbury	Newbury (part)	C.C., Berks	D.M., South Midland	The whole group except Linkenholt and Oxenwood exchanges.
Newcastle	Newcastle (part)	C.C., Durham	T.M., Newcastle	The Newcastle group except those exchanges in the Berwick warning district.
Newport	Newport	C.C., Monmouthshire	T.M., Cardiff	—
Newtown	Newtown	C.C., Montgomery	D.M., Chester	—
	Llandrindod Wells	C.C., Radnor	"	—
Northampton	Northampton	C.C., Northants	T.M., Coventry	—
Norwich	Norwich Gt.	C.C., Norfolk	T.M., Norwich	—
	Yarmouth Lowestoft	"	"	—
Nottingham	Nottingham	C.C., Notts.	"	—
	Mansfield	"	T.M., Nottingham	—

Warning District.	Telephone Groups or parts of Groups included in Warning District.	Chief Constable nominated to co-ordinate Warning Lists in each Group or part of a Group.	Telephone/District Manager responsible for the distribution of warning messages.	Remarks.
(1)	(2)	(3)	(4)	(5)
Oxford	Oxford (part) Swindon (part)	I.—ENGLAND AND WALES—(Contd.) C.C., Oxford-shire "	D.M., South Midland "	The whole group except Uffington exchange. Clanfield exchange only.
Penrith	Penrith Kendal	C.C., Cumberland and Westmorland "	T.M., Lancaster "	— —
Peterborough	Peterborough (part) Huntingdon	C.C., Peterborough C.C., Hunts.	T.M., Peterborough "	The whole group except Bythorn, Clapton, Lowick and Thrapston exchanges. —
Plymouth	Plymouth St. Austell	C.C., Devon C.C., Cornwall	D.M., Western "	— —
Portsmouth	Portsmouth Chichester Ryde Southampton	C.C., Portsmouth C.C., West Sussex C.C., Isle of Wight C.C., Hants.	D.M., Southampton T.M., Brighton D.M., Southampton "	— — — —
Preston	Preston Blackpool Liverpool (part) Wigan	C.C., Lanes. " " "	T.M., Preston " " "	— — Exchanges which will form the Southport group. —
Reading	Reading London (part)	C.C., Berks. "	D.M., South Midland "	— Exchanges which will form the Slough group.
Rugby	Rugby Leamington	C.C., Warwickshire "	T.M., Coventry "	— —
Salisbury	Salisbury	C.C., Wilts.	D.M., Southampton	—
Sheffield	Sheffield (part) Barnsley	C.C., West Riding "	T.M., Sheffield "	The whole group except Gamston, Rampton, Ranskill, Retford, Sturton-le-Steeple, and Wiseton exchanges. —
Shrewsbury	Shrewsbury (part) Oswestry	C.C., Salop "	D.M., Chester "	The whole group except those exchanges in the Wellington warning district. —
Stoke-on-Trent	Stoke-on-Trent (part) Birmingham (part)	C.C., Staffs. "	D.M., Chester "	The whole group except those exchanges in the Wellington warning district. Those exchanges which will form the Stafford group.
Swansea	Swansea	C.C., Glamorgan	T.M., Swansea	—

Warning District.	Telephone Groups or parts of Groups included in Warning District.	Chief Constable nominated to co-ordinate Warning Lists in each Group or part of a Group.	Telephone/District Manager responsible for the distribution of warning messages.	Remarks.
(1)	(2)	(3)	(4)	(5)
Swindon	Swindon (part) Oxford (part)	I.—ENGLAND AND WALES—(Contd.) C.C., Wilts. "	D.M., South Midland "	The whole group except Clanfield exchange. Uffington exchange only.
Taunton	Taunton Bridgwater Minehead	C.C., Somerset " "	D.M., Western " "	— — —
Truro	Truro Falmouth Penzance	C.C., Cornwall " "	D.M., Western " "	— — —
Tunbridge Wells	Tunbridge Wells Hastings	C.C., East Sussex "	T.M., Tunbridge Wells "	The whole group except Smarden and Tenterden exchanges. —
Wellington	Wellington Chester (part) Shrewsbury (part) Stoke-on-Trent (part)	C.C., Salop C.C., Cheshire C.C., Salop "	D.M., Chester " " "	— Hampton, Malpas, Nomans Heath and Threapwood exchanges only. Ash, Bettisfield, Burleydam, Calverhall, Hanmer, Marbury, Prees, Redbrook Maelor, Whitechurch and Whixall exchanges only. Adderley, Cheswardine, Hales, Hodnet, Market Drayton, Norton in Hales and Tern Hill exchanges only.
Weymouth	Weymouth	C.C., Dorset	T.M., Bourne-mouth	—
Whitehaven	Whitehaven Carlisle (part) Keswick	C.C., Cumberland and Westmorland " "	T.M., Lancaster " "	— Allonby, Brigham, Maryport and Workington exchanges only. —
Wolverhampton	Birmingham (part)	C.C., Staffs.	T.M., Birmingham	Those exchanges which will form the Wolverhampton and Kidderminster groups.
Wrexham	Wrexham	C.C., Denbigh	D.M., Chester	—
Yeovil	Yeovil	C.C., Somerset	D.M., Western	—
York	York Leeds (part) Scarborough	C.C., North Riding C.C., West Riding C.C., North Riding	T.M., York " "	— Appleton Roebuck, Bubwith, Burn, Camblesforth, Cawood, Gateforth, Hemingbrough, Newsholme, Riccall, Selby and Skipwith exchanges only. —

Warning District.	Telephone Groups or parts of Groups included in Warning District.	Chief Constable nominated to co-ordinate Warning Lists in each Group or part of a Group.	Telephone/District Manager responsible for the distribution of warning messages.	Remarks.
(1)	(2)	(3)	(4)	(5)
II.—SCOTLAND.				
Aberdeen	Aberdeen (part)	C.C., Aberdeenshire	T.M., Aberdeen	The whole group except those exchanges in the Dundee and Wick warning districts.
Ayr	Ayr	C.C., Ayrshire	T.M., Scotland West	—
Brodrick	Brodrick	C.C., Bute	T.M., Scotland West	—
Campbeltown	Campbeltown	C.C., Argyll	T.M., Scotland West	—
Dumfries	Dumfries Carlisle (part)	C.C., Dumfriesshire "	T.M., Scotland West "	— Gretna exchange only.
Dundee	Dundee Aberdeen (part) Kirkcaldy (part)	C.C., Angus " C.C., Fifeshire	T.M., Dundee " "	— Auchenblae, Fettercairn, For- doun and Laurencekirk ex- changes only. Auchtermuchty, Falkland, Gateside, Kingskettle, Lady- bank, Letham and Strath- miglo exchanges only.
Edinburgh	Edinburgh Glasgow (part) Kirkcaldy (part)	C.C., Midlothian " C.C., Fifeshire	T.M., Edinburgh " "	— Armadales, Bathgate, Dech- mont, Stoneyburn and Whit- burn exchanges only. The whole group except those exchanges in the Dundee warning district.
Elgin	Elgin	C.C., Moray and Mairn*	T.M., Aberdeen	—
Fort William	Fort William	C.C., Inverness-shire	T.M., Scotland West	—
Galashiels	Galashiels Edinburgh (part)	C.C., Selkirk C.C., Berwickshire	T.M., Edinburgh "	— Ayton, Birgham, Chirnside, Coldingham, Coldstream, Crookham (Northd.), Cum- ledge, Duns, Eyemouth, Grantshouse, Greenlaw, Leit- holm, Longformacus, Mind- rum, Reston, Swinton (Berwicks.) and Whitsome exchanges only.
Glasgow	Glasgow (part)	C.C., Stirlingshire	T.M., Glasgow	The Glasgow group except those exchanges in the Edinburgh, Greenock, Kilmar-nock, Lanark and Stirling warning districts.

Warning District.	Telephone Groups or parts of Groups included in Warning District.	Chief Constable nominated to co-ordinate Warning Lists in each Group or part of a Group.	Telephone/District Manager responsible for the distribution of warning messages.	Remarks.
(1)	(2)	(3)	(4)	(5)
Greenock	Glasgow (part)	II.—SCOTLAND—(Contd.) C.C., Renfrewshire	T.M., Scotland West	Exchanges including, and to the west of, Strachur, Ardentiny, Kilmun, Gourrock, Greenock, Port Glasgow, Langbank, Wemyss Bay, Largo and Fairlie.
Inverness	Inverness (part)	C.C., Inverness-shire	T.M., Aberdeen	The whole group except those exchanges in the Kyle warning district.
Kilmarnock	Glasgow (part)	C.C., Ayrshire	T.M., Scotland West	Exchanges including, and to the south of, West Kilbride, Kilmarnock, Torrance, Dunlop, Fenwick, Moscow, Newmilns and Darvel.
Kyle	Kyle Inverness (part)	C.C., Inverness-shire "	T.M., Aberdeen "	— Exchanges in the Isle of Harris and Lewis together with Carbost, Duntulm (Isle of Skye), Dunvegan, Edinbane, Glenbrittle, Portree, Skeabost Bridge, Sligachan and Uig exchanges.
Lanark	Glasgow (part)	C.C., Lanarkshire	T.M., Scotland West	Exchanges including, and to the south of, Drumclog, Chapelton, Stonehouse, Crossford, Carlisle, Carstairs, Carnwath and Dunsyre.
Oban	Oban Lochgilphead	C.C., Argyll "	T.M., Scotland West "	— —
Perth	Perth	C.C., Perthshire	T.M., Dundee	—
Stirling	Glasgow (part)	C.C., Stirlingshire	T.M., Scotland West	Exchanges including, and to the east and north of Callander, Port of Menteith, Kippen, Gargunnoch, Banknock, Slamannan and Avenbridge.
Stranraer	Stranraer	C.C., Wigtownshire	T.M., West Scotland	—
Wick	Wick Aberdeen (part)	C.C., Caithness C.C., Caithness	T.M., Aberdeen "	— Exchanges in the Orkneys.
Belfast	Belfast Enniskillen London-derry Omagh	III.—NORTHERN IRELAND. Inspector General, Royal Ulster Constabulary " " "	T.M., Belfast " " "	— — —

A.R.P. DEPARTMENT CIRCULAR No. 216/1939*August 31, 1939***USE OF PREMISES AS SHELTERS**

SIR,—I am directed by the Lord Privy Seal to refer to Regulation 23 (1) of the Defence Regulations, 1939, which, in conjunction with Regulation 38, empowers persons authorised by the Lord Privy Seal to direct that premises or parts of premises may be used for affording protection to persons from war attack.

The Lord Privy Seal hereby authorises the Local Authorities to whose Clerks he has delegated functions under Regulation 51 in relation to the provision of public shelters (vide Circular 198/1939) to act under Regulation 23 (1).

The Regulation enables Local Authorities who have been so authorised to direct the use as shelter of any premises and is to be used in the case of all public shelters already prepared and buildings of the type referred to in paragraph 3 of Circular 204/1939.

Shelters constructed in connection with factories and commercial buildings and industrial premises which may be required as shelter for employees should not be made the subject of directions under the Regulations.

The directions should state that the premises will be available as shelter for a specified number of persons during air raids.

The power of direction may also, if necessary, be used in cases when shelter—whether steel shelters, surface shelters or strengthened basements—has been provided under Part IV of the Civil Defence Act in order to secure that any surplus accommodation in the shelter not required for the members of the household may be used by other occupants of the house or by neighbours.

I am, Sir, etc.

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AIR-RAID PRECAUTIONS ACT, 1937*Circular 1869**September 9, 1939***FIRST AID POSTS**

SIR,—I am directed by the Minister of Health to refer to paragraphs 13 to 17 of Circular 1789, dated the 24th March, 1939, concerning volunteer personnel at first aid posts and to say that in the light of representations which have been made to him, he has further reviewed the question of the proportion of such personnel to be employed on a whole-time basis in war time.

INCREASE IN WHOLE-TIME PERSONNEL

2. It has been decided that in an area in which the Air Raid Precautions Department of the Home Office has authorised the scheme-making authority to employ on a whole-time basis the whole of the men required to fill the war establishment of the first aid parties, the Authority, if it is satisfied that such an increase is necessary in order to ensure the proper working of the first aid posts, may employ up to 50 per cent. of the personnel of the post on a whole-time basis, i.e., may employ on a

whole-time basis not more than six men and not more than twenty-four women where the establishment of the post is sixty.

3. Similarly, in an area where the Home Office has authorised the employment on a whole-time basis of half of the men required to fill the war establishment of first aid parties, the Authority may, if similarly satisfied as to the necessity for this course, employ up to but not more than 30 per cent. of the personnel of the first aid post on a whole-time basis, in the proportion of three men to fifteen women where the authorised establishment is sixty and of three men to nine women where the authorised establishment is forty.

4. These revised allocations relate only to men volunteers at £3 a week and the women volunteers at £2 a week. The numbers do not include the trained nurse, if any, attached to the post.

5. As regards mobile aid posts, where the Home Office has authorised the employment on a whole-time basis of the full war establishment of stretcher parties, the Authority may, if satisfied as to the necessity for doing so, employ on a whole-time basis the whole of the authorised personnel of the Mobile Unit, or any lesser number which will meet the necessity of the case. If the full personnel of eighteen is employed whole-time, six may be men. Similarly where the Home Office has authorised whole-time employment of half of the personnel of the stretcher parties, the Authority may, if satisfied as to necessity, employ up to 50 per cent. of the personnel of the Mobile Unit on a whole-time basis, in the proportion of three men to six women.

6. Volunteers who may be very suitable for employment but who, while not perhaps in a position to offer whole-time service, are willing to undertake a substantial amount of duty without payment, should, of course, be retained and should not be replaced by whole-time paid personnel.

7. It will be appreciated that it may be necessary at a later date to reconsider the whole question of personnel in the light of prevailing conditions and that in that event the question of the available man power of the nation and its distribution would be an important factor. Authorities are expected to keep the needs of their area under constant review.

EMPLOYMENT OF TRAINED NURSE

8. As has been indicated in previous circulars, it is desirable that a trained nurse should be attached to the post. Where it is considered essential that the trained nurse should be employed on a whole-time basis, the Minister will recognise the employment at each post of one trained nurse, provided by the Civil Nursing Reserve, for the purpose of the financial adjustments between the Government and the Authority. The appropriate rate of pay for a trained nurse employed whole-time at an aid post in war time and provided from the Civil Nursing Reserve is the same as that laid down in Circular 1861, dated 3rd September, 1939, for trained nurses provided by the Civil Nursing Reserve for whole-time service in hospital, namely, £90 per annum plus board, lodging and laundry. Where the nurse is not provided with board and lodging an additional sum of one guinea a week will be payable to her, and a further additional sum of 3s. 6d. per week will be payable where free laundry is not provided.

RATES OF PAY FOR OTHER PERSONNEL

9. The rates of pay of other members of the personnel of a first aid post employed on a whole-time basis have already been laid down

and are £3 a week for men volunteers and £2 a week for women volunteers. These rates are not applicable to personnel below the age of 18, but it is assumed that none of the personnel of an aid post are under 18.

DOCTORS : RATE OF PAYMENT

10. It has been agreed with representatives of the medical profession that the appropriate rate of payment for doctors at first aid posts in war time shall be one-and-a-half guineas per session of not more than two hours, and three guineas for a session exceeding two hours subject to a total payment of not more than three guineas in respect of any one day. A sessional fee is payable on all occasions when a doctor is required to attend at his post in consequence of an air raid warning. The session runs from the time of his arrival at the post. The sessional fee will not be payable where the doctor is a whole-time officer of the local authority or a whole-time officer in the Emergency Medical Service of the Ministry of Health.

TIME WHEN THE DOCTOR SHOULD REPORT FOR DUTY

11. Local arrangements made by the Medical Officer of Health for manning the post will no doubt vary according to local conditions. Authorities will naturally bear in mind the desirability of limiting the call on the doctors' time to the minimum consistent with the efficiency of the service. Quite apart from any financial implications, it is important to avoid excessive calls upon the services of busy practitioners whose work is already increased by the absence on other duties of many of their colleagues.

It is considered that where the doctor lives within a reasonable distance of his aid post, as will usually be the case, he should not be required to attend unless and until it is obvious that the town or district has actually been raided. This should still allow time for him to reach the aid post before the arrival of casualties.

DEDUCTION OF INSURANCE CONTRIBUTIONS

12. As indicated in A.R.P. Department Circular 197/1939, which is generally applicable to the pay of whole-time personnel at aid posts, and to which reference should be made, the pay of volunteers, including trained nurses employed on a whole-time basis, but not doctors, will be subject to the appropriate deductions for National Health and Pensions and, where the employment is within the scope of that scheme, for Unemployment Insurance.

GENERAL FINANCIAL ARRANGEMENTS

13. The general arrangements as to the financial relation between the Government and the Local Authorities concerning the pay of A.R.P. volunteers apply to the sessional fee paid to the doctors and to the whole of the whole-time personnel of first aid posts authorised by this Circular.

I am, Sir, etc.

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AIR-RAID PRECAUTIONS ACT, 1937*Circular 1862**September 4, 1939***FIRST-AID POSTS**

SIR,—I am directed by the Minister of Health to refer to Circular 1789 of 24th March, 1939, to which was scheduled a list of the medical supplies to be distributed by the Department to Scheme-making Authorities.

In certain areas this distribution is not yet complete. Where in these cases there is a substantial deficiency in the scheduled equipment which cannot be met from the Authority's own resources, the Authority may, if the Medical Officer of Health so advises, make up the deficiency at first-aid posts which have been approved by the Minister by purchase through its usual channels and in due course submit a claim to the Department for reimbursement.

I am to add that the Department is making further central purchases of equipment, in order to constitute reserves of supplies for use at aid posts as required. If before these supplies are delivered an Authority makes use of its present stocks it should replenish them by purchase and claim reimbursement as above.

I am, Sir, etc.

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A.R.P. DEPARTMENT CIRCULAR No. 228/1939*September 3, 1939***PROVISION OF FOOD FOR A.R.P. PERSONNEL**

SIR,—I am directed by the Lord Privy Seal to refer to Circular No. 134/1939 of the 7th July with regard to depot accommodation and the provision of arrangements for sleeping and messing.

The Lord Privy Seal assumes that local authorities will have made arrangements as indicated in that Circular for A.R.P. personnel to obtain food at reasonable prices from caterers in the vicinity of the various depots or otherwise. Normally personnel would be expected to pay for meals during their spell of duty, but for the purpose of assisting local authorities to organise the duty spells according to varying needs, the Lord Privy Seal authorises them to make the following special arrangements :—

- (1) If personnel are kept on duty for 12 hours the local authority may provide one meal for them free of charge. The cost of the meal must not exceed 1s. per head.

No allowance in lieu of such meals may be paid.

- (2) Local authorities may also send to squads of parties working for long hours away from their depots simple rations, such as hot drinks, sandwiches, etc., free of charge.

The cost of the provision under (1) and (2) will rank for grant.

- (3) All other refreshments or food provided in depots must be paid for. The Lord Privy Seal agrees that the charge for personnel for this food shall represent the cost of the food, and that the overheads, representing heating, service and the cost of simple installation for preparing the food, shall rank for grant.

I am, Sir, etc.

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CASES

3. Housing—Letting Part of Clearance Site for Air Raid Shelter—Previous Schemes Refused Approval by Ministers—Lease to Company Constructing Shelter—Lease of Shelter when Constructed to Authority—Validity of Scheme—London Government Act, 1899 (c. 14), s. 5 (2), Sched. II, Part II—Housing Act, 1936 (c. 51), s. 30—Air-Raid Precautions Act, 1937 (c. 6), ss. 1 (3), 7.

Defendant authority prepared a scheme for constructing underground air raid shelters, but the Secretary of State refused to approve it. They then resolved to construct a shelter within a clearance area and submitted plans thereof to the Minister of Health with a request for a loan for the estimated cost thereof. The Minister refused to approve the proposed expenditure. They then entered into an agreement with a company whereby they agreed to lease to the company some land which was a part of a clearance site, the company agreeing to construct a shelter on this land, and to lease the shelter, when constructed, to defendants, at a rental of £50 a year and interest at $5\frac{1}{8}$ per cent. on the capital cost of the shelter and a $2\frac{1}{2}$ per cent. amortisation charge. The present action was brought by a ratepayer who claimed that the scheme was *ultra vires* the borough council on the grounds (i) that the letting to the company was not authorised by the Housing Act, 1936, s. 30, (ii) that this transaction was, in substance, the borrowing of money by defendants for the purpose of expenditure under the Air-Raid Precautions Act, 1937, which therefore required the consent of the Minister, and (iii) that the hiring agreement was unauthorised:—

Held: (i) this was a letting within the Housing Act, 1936, s. 30;

(ii) this was not a borrowing of money, but an agreement to pay a yearly sum, and as such did not require the consent of the Minister under the Air-Raid Precautions Act, 1937;

(iii) it was the duty of defendants to provide shelter for the inhabitants of the borough, and they were therefore justified, by virtue of the London Government Act, 1899, s. 5 (2), in acquiring the land in question in the way which they deemed expedient;

(iv) the scheme was therefore not *ultra vires* defendants, and the action failed.—A.-G. (MARTIN) *v.* FINSBURY CORPN., [1939] Ch. 892; [1939] 3 All E. R. 995; 161 L. T. 258; 103 J. P. 357; 55 T. L. R. 1078; 83 Sol. Jo. 732; Digest Supp. [389]

ALKALI, ETC. WORKS

See REGULATED INDUSTRIES, TRADES AND BUSINESSES.

ALLOTMENTS

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ORDERS, CIRCULARS AND MEMORANDA CULTIVATION OF LANDS (ALLOTMENTS) ORDER, 1939

S.R. & O., 1939, No. 1816

September 18, 1939

In pursuance of Regulation 51 of the Defence Regulations, 1939, the Minister of Agriculture and Fisheries (hereinafter referred to as "the Minister") hereby makes the following Order :—

1. Subject as hereinafter provided, the powers of the Minister under Regulation 51 are hereby delegated to the council of the administrative county of London and to the councils of each borough (including metropolitan borough) and urban district in England and Wales as respects any land within the County of London or the borough or district, or land outside the County of London or the borough or district which, in the opinion of the council, can conveniently be cultivated or used for the production of food by persons residing in the County of London or the borough or district.

2. A council shall not enter on any garden or pleasure ground occupied or usually occupied together with a dwelling-house or on any common land, as defined in this Order, without a further consent given by the Minister, or on any occupied land except with the written consent of the owner and occupier of the land.

3. A council shall not without the sanction of the Minister enter on any land for the purpose of using it for the keeping or breeding of livestock other than poultry or bees, or use for such purpose any land on which the council have entered under Regulation 51.

4. A council shall as soon as possible after entry on any land give notice in writing of the entry to the occupier (if any) of the land, and also to the owner thereof.

5. In the case of occupied land,

- (i) a council may agree to make a periodical payment for the use thereof but the amount so paid shall in no case exceed a rental value of the land for agricultural purposes and shall be a sum equal to the rent which might reasonably be expected to be payable by a tenant in occupation of the land, during the period for which possession of the land is retained in the exercise of emergency powers, under a lease granted immediately before the beginning of that period, whereby the tenant undertook to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the land in a state to command that rent ;

- (ii) where the land of which possession is taken is agricultural land, a sum may be paid equal to the amount (if any) which might reasonably have been expected to be payable in addition to rent by an incoming tenant, in respect of things previously done for the purpose of the cultivation of the land, and in respect of growing crops, seeds, tillages and other similar matters, under a lease of the land granted immediately before possession thereof was taken in the exercise of emergency powers :

Provided that in computing the rent which might reasonably be expected to be payable in respect of any land, and in computing any amount payable under (ii) above no account shall be taken of any appreciation of values due to the emergency.

6. A council may arrange with any society having for its object the cultivation of vacant land for the cultivation or use of any land on which the council has entered.

7. A council may, but only with the express sanction of the Minister, adapt any land (including any buildings or erections thereon) for use for the keeping or breeding of livestock, poultry or bees.

8. A council shall, so far as is practicable, arrange that the payments to be made to the council by the occupiers for the use of the land shall cover the cost incurred by the council in providing the land or adapting it for cultivation or use, and shall not incur any expenses in the exercise of the powers hereby conferred (except in respect of any sum which may in certain circumstances be payable for the restoration of the land), which will involve the Minister in a liability to repay the council a total amount exceeding two pounds for each acre provided by the council.

9. Any arrangement with a person or society for the cultivation or user of the land shall be subject to determination by the council or the Minister at any time and shall not provide for payment at the termination of the arrangement of compensation except as specified in the Allotments Act, 1922.

10. No such arrangement shall be terminated (except for a breach of the terms of the arrangement) between the 6th day of April and the 29th day of September in any year unless the consent of the Minister has previously been obtained.

11. The land shall not be used for the production of vegetable or fruit crops which continue productive for more than one year.

12. A separate account shall be kept by a council of all its receipts and expenditure under this Order, which shall at any time be open to inspection by an officer of the Ministry.

13. In this Order the expression " common land " includes any land subject to be inclosed under the Inclosure Acts, 1845 to 1882, and any town or village green and any other land subject to any right of common.

14. This Order applies only to England and Wales.

15. This Order may be cited as the Cultivation of Lands (Allotments) Order, 1939.

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**TRESPASS ON AGRICULTURAL LAND (ALLOTMENTS)
ORDER, 1939***S. R. & O., 1939, No. 1317**September 18, 1939*

In pursuance of Regulation 61 (2) of the Defence Regulations, 1939, the Minister of Agriculture and Fisheries (hereinafter referred to as "the Minister") hereby makes the following Order :—

1. For the purpose of Regulation 61 (2) dealing with trespass on agricultural land, the Minister hereby specifies that any land used as allotments or allotment gardens is agricultural land for the purposes of that Regulation.

2. This Order applies only to England and Wales.

3. This Order may be cited as the Trespass on Agricultural Land (Allotments) Order, 1939.

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ALTERATION OF AREAS*See ELECTIONS.*

ANALYST*See FOOD AND DRUGS.*

ANCIENT MONUMENTS AND BUILDINGS

PAGE

ORDERS, CIRCULARS AND MEMORANDA :—

Order applying Ancient Monuments Consolidation and Amendment Act,
1913 (c. 32), s. 14 — — — — — 187

ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL APPLYING SECTION 14 OF THE ANCIENT MONUMENTS CONSOLIDATION AND AMENDMENT ACT, 1913 (3 & 4 GEO. 5, C. 32) TO CERTAIN ANCIENT MONUMENTS IN ENGLAND, WALES AND SCOTLAND

S. R. & O., 1939, No. 790

At the Court at Buckingham Palace, the 3rd day of July, 1939.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas by Section 14 (1) of the Ancient Monuments Consolidation and Amendment Act, 1913, penalties are imposed upon any person injuring or defacing (among other things) any monument to which that section applies by virtue of an Order in Council made thereunder and by sub-section (4) of the same section it is provided that His Majesty may by Order in Council declare that the said section shall apply to any monument specified in the Order which appears to His Majesty to be an ancient monument within the meaning of the said Act :

Now, therefore, in pursuance of the above mentioned Act, His Majesty is pleased, by and with the advice of His Privy Council, to order and prescribe that Section 14 of the said Act shall apply to the following monuments which appear to His Majesty to be ancient monuments within the meaning of the said Act.

Rupert B. Howorth.

ENGLAND

Monument.	County.	Parish.
Harrold, round house	Bedfordshire	Harrold.
Stevington Village Cross	"	Stevington.
Abingdon Abbey, gatehouse and guest house.	Berkshire	Abingdon.
Cookham, barrows on Cock Marsh	"	Cookham.
East Hagbourne Village Cross	"	East Hagbourne.
Grim's Bank : section extending 880 yards, Old Warren, Aldermaston.	"	Aldermaston.
"Seven Barrows" and adjacent tumuli to the N. and S., Lambourn.	"	Lambourn ; Sparsholt.
Ashley Green, barn and moated site at Grove Farm.	Buckinghamshire	Ashley Green.
Bolebee Castle, Whitechurch	"	Whitechurch.
Cublington, The Beacon	"	Cublington.
Pitstone, Roman site on Moneybury Hill.	"	Pitstone.
Quanton Village Cross	"	Quanton.
Redding Wick, moated site, Great Missenden.	"	Great Missenden.
Wing, Castle Hill	"	Wing.

ENGLAND—continued

Monument.	County.	Parish.
Altarnun, menhir on Spettigue Farm	Cornwall	Altarnun.
Goodaver stone circle, Goodaver Downs, Altarnun.	"	"
Looe, East, Old Guildhall	"	East Looe.
Triffle Farm, cross at, St. Germans ..	"	St. Germans.
Brampton Old Church Roman Fort	Cumberland	Brampton.
Carlisle, Redness Hall	"	Carlisle.
Morley, moated mound	Derbyshire	Morley.
Two Dales, cross-shaft at The Holt, Darley.	"	Darley.
Winkleigh, Court Castle	Devonshire	Winkleigh.
Cerne Abbas, tithe barn (uninhabited portion) at Barton Farm.	Dorsetshire	Cerne Abbas.
Witchampton, remains of "Abbey Buildings."	"	Witchampton.
Causey Arch, near Tanfield	Durham	Tanfield.
Piercebridge Roman Station	"	Piercebridge.
Brimpsfield Castle	Gloucestershire	Brimpsfield.
Kingswood Abbey Gate	"	Kingswood.
Newent Market House	"	Newent.
Christchurch, Staple Cross	Hampshire	Christchurch East.
Southampton, castle wall	"	All Saints.
Downton Camp, Downton on the Rock.	Herefordshire	Downton.
Eardisley Castle	"	Eardisley.
Kimbolton, Bach Camp	"	Kimbolton.
Rothamsted, Romano-British site ..	Hertfordshire	Harpenden Rural.
Folkestone, "Caesar's Camp" (or "Norman Fort"), Castle Hill.	Kent	Folkestone.
Saltwood Castle (uninhabited portions).	"	Saltwood.
Sandwich Town Walls	"	St. Peter; St. Clement; St. Mary.
Strutfall Castle, Lympne	"	Lympne.
Rufford Old Hall	Lancashire	Rufford.
London Wall: remains of mediaeval and Roman wall extending 75 yards N. from Trinity Place to L.N.E.R. Railway.	London	Whitechapel.
Coxford Priory, East Rudham	Norfolk	East Rudham.
Peterborough, Old Customs House ..	Northamptonshire	Peterborough Within.
Coquet Island Tower	Northumberland	Hauxley.
Tarset Castle, Bellingham	"	Bellingham.
Chastleton Barrow Camp	Oxfordshire	Chastleton.
Stonesfield Roman Villa	"	Stonesfield.
Bishop's Castle, "The Crotches" ..	Shropshire	Bishop's Castle, Urban.
Publow, round house	Somersetshire	Publow.
Ubley Hill Farm, group of barrows E. and S.W. of, Ubley.	"	Ubley; Blagdon.
Ilam, St. Bertram's Bridge	Staffordshire	Ilam; Blore with Swinscoe.
Rushall Castle, tumulus near	"	Rushall.
Patcham Court Farm, dovecot at, Brighton	Sussex	Brighton.
Seaford Head Camp, Seaford	"	Seaford.
Ambleside Roman Fort	Westmorland	Ambleside.
Asby, Castle Folds	"	Asby.
Asby, earthworks at Little Asby	"	"
Asby, village settlement near Muddy Gill Farm.	"	"
Askham, earthwork E. of Setterah-park Wood,	"	Askham.
Askham, village settlement at Skiragill Hill,	"	"
Bampton, earthwork in Scarside Plantation,	"	Bampton.
Clifton, megaliths S. of Crooklands	"	Clifton.
Crackenthorpe, Roman camp E. of Redlands Bank,	"	Crackenthorpe.
Crosby Garrett, British settlements on Intake,	"	Crosby Garratt.
Crosby Ravensworth, British settlement 300 yards N.W. of Blasterfield,	"	Crosby Ravensworth.

ENGLAND—continued

Monument.	County.	Parish.
Crosby Ravensworth, British settlement 630 yards S. of Howarcles,	Westmorland ..	Crosby Ravensworth.
Crosby Ravensworth, British settlement on Wickerslack Moor,	" ..	" "
Crosby Ravensworth, Burwens British settlement N. E. of Crosby Lodge,	" ..	" "
Crosby Ravensworth, Cow Green British Settlement,	" ..	" "
Crosby Ravensworth, Ewe Locks British Settlement,	" ..	" "
Crosby Ravensworth, mounds at Iron Hill,	" ..	Crosby Ravensworth ; Orton.
Crosby Ravensworth, stone circle 240 yards S.E. of Castlehowe Scar,	" ..	Crosby Ravensworth.
Crosby Ravensworth, village settlement at Howarcles,	" ..	" "
Crosby Ravensworth, stone circle 600 yards S.S.W. of Oddendale,	" ..	" "
Dufton, " Castle Hill "	" ..	Dufton.
Martindale, British settlement on Heck Beck,	" ..	Martindale.
Roper Castle, Stainmore	" ..	Stainmore.
Yanwath, British settlement N. of Yanwath Wood,	" ..	Yanwath and Eamont Bridge.
Yanwath, Castlesteads	" ..	" "
Ansty, guest house of the Knights of St. John,	Wiltshire ..	Ansty.
Ratfyn Barrow, Amesbury	" ..	Amesbury.
Steeple Ashton, Market Cross and Round House,	" ..	Steeple Ashton.
Bolthby Scar, promontory fortress and three tumuli,	Yorkshire ..	Bolthby.
Burton in Lonsdale, Castle Hill ..	" ..	Burton in Lonsdale
Cotherstone Castle	" ..	Cotherstone.
Grewelthorpe, Roman camp	" ..	Grewelthorpe.
Howden, The Bishop's Manor House (Langley's Gateway and curtain wall),	" ..	Howden.
Langton Roman Villa	" ..	Langton.
Mexborough Castle Hills	" ..	Mexborough.
Ralph Crosses (Young Ralph ; Old Ralph), Westerdale Moor.	" ..	Westerdale.
Roman Ridge (Roman road), section 450 yards N.N.E. of Kimberworth Park Farm, Rotherham.	" ..	Rotherham.
Roomer Common, camp and tumulus, near Masham.	" ..	Swinton with Warthermarske.
Skipwith Common, " Danes Hills " (tumuli on Crook Moor),	" ..	Skipwith.
Skipwith Common, group of tumuli including " Danes Hills " (near Mound Plantation),	" ..	"
West Tanfield, Magdalen Field earth-work,	" ..	West Tanfield.
White Cross (" Fat Betty "), Danby High Moor.	" ..	Danby ; Westerdale ; Rose-dale Eastside.
York, Lamel Hill (Anglo-Saxon tumulus),	" ..	York.
WALES		
Llanfair-pwllgwyngyll, dolmen 200 yards N.E. of Pen-y-berth,	Anglesey ..	Llanfair-pwllgwyngyll.
Aberllynfi, Great House mound and bailey castle,	Brecknockshire ..	Aberllynfi.
Banc Ystrad-wen, cairns on, Llysdinam.	" ..	Llysdinam.
Caer Beris (castle mound), Llanganten	" ..	Llanganten.
Carn y Gelfr, Llysdinam	" ..	Llysdinam.
Castell Coch, Ystradfellte	" ..	Ystradfellte.
Cefn Barn Camp, Talgarth	" ..	Talgarth.
Cefn Ty-mawr, cairn on, Llysdinam.	" ..	Llysdinam.

WALES—continued.

Monument.	County.	Parish.
Cerrig Duon Stone Circle, Traian-glâs	Brecknockshire	Traian-glâs.
Coed Fenni-fâch Camp, Venny-fâch	"	Venny-fâch.
Coed Ty-mawr, ringwork near, Llysdinam.	"	Llysdinam.
Coelbren Fort, section of Roman road N.E. of, Ystradfellte.	"	Ystradfellte.
Garn Goch, Llangattock	"	Llangattock.
Little Lodge, long barrow near, Aberllynfi.	"	Aberllynfi.
Llanafan-fawr, earthwork S.W. of church,	"	Llanafan-fawr.
Llanafan-fawr, standing stone S.S.E. of Dol-y-felin.	"	"
Llyswen Camp	"	Llyswen.
Llyswen, standing stone E. of Llan-goed Wood,	"	"
Mynydd Bach Treicastell, stone circles, Traian-glâs.	"	Traian-glâs.
Mynydd Epynt, stone circle, Llanfihangel-nant-brân.	"	Llanfihangel-nant-brân.
Nant-Tarw, stone circles, Traian-glâs	"	Traian-glâs.
Pen - y - Garn - gôch (long barrow), Trefiis.	"	Trefiis.
Pen-lyis (earthwork), Llysdinam	"	Llysdinam.
Pipton, barrow 100 yards N.E. of Pipton Farm,	"	Pipton.
Saith Maen (standing stones), Llanfihangel-bryn-pabuan.	"	Llanfihangel-bryn-pabuan.
Saithmaen (standing stones), Ystradgynlais.	"	Ystradgynlais Higher.
Talgarth Camp	"	Talgarth.
Tredustan, castle mound, Talgarth	"	"
Trefecca, remains of mound castle, Talgarth.	"	"
Trefecca-fawr, moated enclosure, Talgarth.	"	"
Conway, Archbishop Williams's House Penrhyn, chapel at Penrhyn Old Hall	Caernarvonshire	Conway.
Daren, camp near, Trefeigrig	"	Llandudno-cwm-Eglwysrhos.
Disgwylfa Fawr, barrow, Melindwr	Cardiganshire	Trefeigrig.
Garth-penrhyn-coch, camp near, Trefeigrig.	"	Melindwr.
Hen Gaer (camp) and tumulus, Broncastellan.	"	Trefeigrig.
yr Allor (burial chamber), Llandissilio East.	"	Broncastellan.
Carn Besi (burial chamber), Llandissilio East.	Cardiganshire	"
Castell Garw, burial chamber near, Llandissilio East.	"	"
Cerig Llwydion (burial chamber), Conwil Elvet.	"	Conwil Elvet.
Coetan Samson (burial chamber), Llangeler.	"	Llangeler.
Crosshands, burial chamber near, Llanboidy.	"	Llanboidy.
Llech Ciste (group of standing stones), Llanegwad.	"	Llanegwad.
Morfa Bychan, burial chambers near, Marros.	"	Eglwyscummin.
Bishopston, Caswell cliff fort	Glamorganshire	Bishopston.
Carn Llechart, chambered burial mound, near Rhyndwyelydach.	"	Rhyndwyelydach.
Llanrhidian Lower, promontory fort on Cil Ifor,	"	Llanrhidian Lower.
Llantwit Major, barrows near, Sheeps-lays Farm,	"	Llantwit Major.
Reynoldston, Burry menhir	"	Knelston.
Tŵyn y Cregen (mound and bailey castle), Llanarth.	Monmouthshire	Llanarth.
Bryn y Fedwen, barrows, Penegoes	Montgomeryshire	Penegoes.
Carn Gwilym (cairns), Uwch y Garreg	"	Uwch y Garreg.

WALES—continued

Monument.	County.	Parish.
Foel Fadian, barrow, Penegoes ..	Montgomeryshire ..	Penegoes.
Pen y Crogren, barrow near, Penegoes.	" ..	"
Pen y Crogren (earthwork), Penegoes	" ..	"
Burton Dolmen (Hanging Stone), Burton.	Pembrokeshire ..	Burton.
Penally, sculptured stone cross in churchyard.	" ..	Penally.
Whitewell, Penally	" ..	"
Discoed, castle mound N.E. of church	Radnorshire ..	Discoed.
Fedw, stone circle 400 yards W. of Llanboidy Wood, Glasgwm.	" ..	Glasgwm.
Knighton, site of castle	" ..	Knighton.
Norton, motte and bailey castle ..	" ..	Norton.
Offa's Dyke: Hawthorn Hill, section extending one mile, 630 yards N. to The Firs, Rhôs-y-Meirch	" ..	Whitton; Norton.
Pilleth, Castell Foel-alt	" ..	Pilleth.
"Six Stones" (stone circle), Bryngwyn.	" ..	Bryngwyn; Glasgwm.

SCOTLAND

Balquhain, Castle of, near Chapel of of Garioch.	Aberdeenshire ..	Chapel of Garioch.
Iona Abbey (claustral remains) ..	Argyll ..	Kilfinichen and Kilvickeon.
St. John's Cross, Iona	" ..	" "
St. Martin's Cross, Iona	" ..	" "
St. Mathew's Cross, Iona	" ..	" "
Coldingham Priory (claustral remains)	Berwickshire ..	Coldingham.
Achunabust, broch, near Reay ..	Caithness ..	Reay.
Achvarasdal Lodge, broch, Reay ..	" ..	"
Ballachly, broch, 400 yards S. of, Stemster, near Rangag.	" ..	Latheron.
Ballone, broch, 400 yards E. by N. of, near Spital.	" ..	Halkirk.
Broubster, two standing stones 1,000 yards E. by S. of, Bridge of Broubster, near Shebster.	" ..	Reay.
Bucholty Castle, Freswick	" ..	Canisbay.
Burnside, broch 400 yards E. by N. of, Muckle, Castletown.	" ..	Olig.
"Cairn of Sibmister" (broch), Sibmister, Olig, Castletown.	" ..	"
"Castle Linglas" (broch), Keiss Links, $\frac{1}{2}$ mile E.S.E. of Bridge of Wester, near Keiss.	" ..	Wick.
"Fairy Hillock" (broch), 400 yards S.E. of Spital Mains, Spital.	" ..	Halkirk.
"Green Tullocks" (broch and cairn), 700 yards N.W. by N. of Borrowston Mains, Forss.	" ..	Reay.
"Grey Cairn," 550 yards S.E. of Lynegar House, near Watten.	" ..	Watten.
"Greysteil Castle" (broch), Loch Rangag (on Thurso-Latheron road).	" ..	Latheron.
Halero Manse, broch 700 yards S. of, Bower.	" ..	Bower.
Hempriggs House Lodge, broch, near Wick.	" ..	Wick.
"Hill of Works" (broch), 600 yards E. by S. of Barrock House, Barrock.	" ..	Bower.
"Knock Glass" (broch), 300 yards S.S.W. of Mill of Knockglass, Bridge of Westfield.	" ..	Halkirk.
"Knock Stanger" (cairn), 800 yards E. of Sandside House, Reay.	" ..	Reay.
"Knock Urray" (broch), $\frac{1}{2}$ mile N.E. by N. of Gunnseroft, near Reay.	" ..	"
Lynegar House, cairn 650 yards N.E. by E. of, near Watten.	" ..	Watten.
Mill of Knockdee, cairn 150 yards S.S.W. of, near Halkirk Roadside.	" ..	Bower.

SCOTLAND—continued.

Monument.	County.	Parish.
Mill of Knockglass, cairn 100 yards S.E. of, Bridge of Westfield.	Caithness	Halkirk.
Mill of Knockglass, cairn 200 yards S. by E. of, Bridge of Westfield.	"	"
Mill of Knockglass, cairn 350 yards S.S.E. of, Bridge of Westfield.	"	"
Olrig House, broch 300 yards E. of, Castletown.	"	Olrig.
Olrig Manse, broch 150 yards S.W. of, Castletown.	"	"
"Ring Hillock," (cairn), 700 yards S.E. by E. of Netherside, near Castletown	"	"
Scrabster Mains, broch 1,000 yards W. of, Scrabster.	"	Thurso.
Skirsa Head, broch, near Freswick ..	"	Canisbay.
Spital Farm, broch 200 yards E. of, Spital.	"	Watten.
"Stone Lud," 250 yards W.S.W. of Upper Bowertower, Bower.	"	Bower.
"Thing's Wa" (broch), 1,050 yards E. of Blackheath, Scrabster.	"	Thurso.
Thomson'sfield, broch 850 yards S. by W. of, Brabstermire, Canisbay.	"	Canisbay.
Thurdistoft, broch 300 yards S.S.W. of, Castletown.	"	Olrig.
"Tulach an Fhuarain," 350 yards N.W. of Bridge of Westerdale.	"	Halkirk.
"Tulach Loahain Bhraiseil," 350 yards N.W. by W. of Bridge of Westerdale.	"	"
"Tulach Mor" (broch), E. bank of River Thurso, 950 yards E.N.E. of Dalemore, Westerdale.	"	"
"Tulloch of Shalmstry" (broch), 300 yards S.E. of Shalmstry, near Thurso.	"	Thurso.
"Tullochs of Assery" (N. end of Loch Calder), 500 yards S.S.W. of Balnahishoch, near Bridge of Westfield.	"	Halkirk.
Watten Post Office, broch $\frac{1}{2}$ mile S. by W. of,	"	Watten.
Capenoch Loch, cairn 250 yards S.S.E. of, near Penpont.	Dumfriesshire ..	Keir.
"Wallace's House" (fort), 1,200 yards N.W. of Burrance Bridge, Courance.	"	Kirkmichael.
Fordell Castle, near Inverkeithing ..	Fifehire	Dalgety.
Fordell Castle, standing stone, Aberdour Lodge, near Inverkeithing.	"	"
"Auld Kirk of Lochroan" (fort), near Crossmichael.	Kirkcudbrightshire ..	Crossmichael.
Castlehill Point, fort 700 yards S. of West Barcoly, near Rockcliffe, Dalbeattie.	"	Colvend and Southwick.
"Castle Muir" (fort), Rascarral Heugh, near Auchencairn.	"	Rerrick.
Cordoran Burn, cairn S. side of, $\frac{1}{2}$ miles N.E. of Cruivend Bridge, Minnigaff.	"	Minnigaff.
Doon Hill, fort, Balig, near Dunrod	"	Rerrick.
Dungarry Fort, 1,100 yards S.E. of Nether Linkins, near Auchencairn.	"	"
Haas, fort 300 yards N.N.E. of, Glenhead, near Auchencairn.	"	"
Ingleston Mote, near New Abbey ..	"	New Abbey.
Kirkcormack, mote $\frac{1}{2}$ mile N.N.W. of Mayfield, near Tongland.	"	Kelton.
Knockbrex, fort $\frac{1}{2}$ mile S.S.E. of, near Borgue.	"	Borgue.
Little Merkland, fort 250 yards W. of, near Parton.	"	Parton.
"McCulloch's Castle" (fort), 700 yards N.E. of Arbigland, near Kirkbean.	"	Kirkbean.

SCOTLAND—continued

Monument.	County.	Parish.
"Mark Mote" (fort), Rockcliffe ..	Kirkeudbrightshire	Colvend and Southwick.
"Meikle Cairn," 400 yards E.N.E. of Upper Minnydow, Kirkpatrick Durham.	"	Kirkpatrick Durham.
Minnoch, Old Bridge of, near Bargrennan.	"	Minnigaff.
Nethertown of Almonness, fort 250 yards N.E. of, near Palnackie.	"	Buittle.
Park, remains of stone circle 270 yards W. of, near Tongland.	"	Tongland.
Seaside, fort $\frac{1}{2}$ mile S.W. of, near Auchencairn.	"	Rerrick.
Seaside, fort 650 yards S. by W. of, near Auchencairn.	"	"
"Sheuchan's Cairn," Highlandman's Rig, near Bargrennan.	"	Minnigaff.
Slewcairn, three cairns, Boreland Hill, near New Abbey.	"	Colvend and Southwick.
Wraith Plantation, fort, Collin Mill Bridge, near Auchencairn.	"	Rerrick.
Edinburgh, standing stone 70 yards W.N.W. of Kirklands, Craigend.	Midlothian	Liberton.
"Barn Stone," 100 yards N. of Barnhouse, $\frac{1}{2}$ mile S.E. of Bridge of Brodgar, Mainland.	Orkney	Stenness.
Bookan, remains of chambered cairn 500 yards S. by E. of, Wasbuster, Mainland.	"	Sandwick.
Bu' of Orphir, mound 230 yards N.W. of, Orphir, Mainland.	"	Orphir.
"Burrian" (broch), W. shore of Loch of Harray at Wasbuster, Mainland.	"	Sandwick.
"Burrian," Netherbrough, Mainland	"	Birsay and Harray.
"Castle Howe," 400 yards N.W. of Banks, Holm, Mainland.	"	Holm.
"Dingy's Howe" (broch), Upper Sanday, Mainland.	"	St. Andrews and Deerness.
"Eves Howe" (broch), 700 yards N. of Braebuster, Deerness, Mainland.	"	" "
Five Hillocks," "The, 250 yards N.N.W. of Rasheyburn, $2\frac{1}{2}$ miles N. of St. Mary's, Mainland.	"	Holm.
Hall of Clestrain, standing stone 250 yards S.W. of, Clestrain, Mainland.	"	Orphir.
Hawill (or Ha'well), mound, Tob, Mainland.	"	St. Andrews and Deerness.
Head of Work, cairn, near Kirkwall, Mainland.	"	Kirkwall and St. Ola.
"Hillock of Breakna," 330 yards S.E. of Swanbister House, Swanbister, Mainland.	"	Orphir.
Hillock, The, broch, Finstown, Mainland.	"	Firth.
Howaback, mound, Hourston, Mainland.	"	Sandwick.
"Howe Harper," 300 yards N.W. of Binscarth, near Finstown, Mainland.	"	Firth.
Ingshowe, broch 300 yards N.E. of, near Finstown, Mainland.	"	"
Kirbuster Hill, mounds 500 yards N. of Whielath, Kirbuster, Mainland.	"	Birsay and Harray.
"Knows of Grugar" (or "Knows of Ryo"), 800 yards E. by S. of Bugar, Mainland.	"	Evie and Rendall.
"Knowes of Yonbell" (two mounds), $\frac{1}{2}$ mile N. of Mount Pleasant, North Dyke, Mainland.	"	Sandwick ; Birsay.
Laith, broch, W. shore of Loch of Harray and $\frac{1}{2}$ mile N. of, Tenston, Mainland.	"	Sandwick.

SCOTLAND—continued.

Monument.	County.	Parish.
Lingro, Broch of, Scapa, Mainland ..	Orkney	Kirkwall and St. Ola.
Loch of Ayre, broch N. end of, St. Mary's, Mainland.	"	Holm.
Loch of Kirbister, island structure, Mainland.	"	Orphir.
Newbigging, mounds 150 yards N.E. of, Twatt, Mainland.	"	Birsay and Harray.
"North Cairn," Rose Ness, Holm, Mainland.	"	Holm.
Northwald, mounds 350 yards N.E. by N. of, Isbister, Mainland.	"	Evie and Rendall.
Ring of Bookan, 150 yards S.W. of Bookan, Wasbuster, Mainland.	"	Sandwick.
"Skae Frue" (mound), 300 yards S.W. of Bookan, Wasbuster, Mainland.	"	"
"Stackrue" (broch), 300 yards W. of Lyking, Wasbuster, Mainland.	"	"
"Stanerandy" (mound and two standing stones), Little Favel, The Barony, Mainland.	"	Birsay and Harray.
Syra Dale, two mounds 350 yards N.N.E. of Setter, near Finstown, Mainland.	"	Firth.
"Thing-voll," Tingwall, near Wood Wick, Mainland.	"	Evie and Rendall.
Vestra Fiold, four mounds, North Dyke, Mainland.	"	Sandwick.
Yeldivill, mound, Netherbrough, Mainland.	"	Birsay and Harray.
Achoheargary, cairn 450 yards N.W. by N. of, Strath Naver.	Sutherland	Farr.
Allt Breac, stone rows 300 yards W. by S. of the bridge over the, Strath of Kildonan.	"	Kildonan.
Allt a' Chorrain, cairn 700 yards E. of the S. end of Kyle of Durness.	"	Durness.
"An Dun" (broch), Loch Ardbhair, $\frac{1}{2}$ mile S.S.W. of Ardvær.	"	Assynt.
"An Dun" (broch), Loch a' Chairn Bhain, 400 yards S.W. by W. of Kylestrome.	"	Eddrachillis.
Bighouse, hut circles one mile S.E. of, Melvich	"	Farr.
Borg," "The (broch), one mile N. of Forsinain Bridge, Strath Halladale.	"	"
Carnachy, hut circles, Strath Naver Cnoc Carnachadh, broch $\frac{1}{2}$ mile N. by E. of Carnachy, Strath Naver.	"	"
Durness, Old Church, Balna Keil.	"	Durness.
Eldrable, broch 300 yards S.W. by W. of, near Helmsdale.	"	Kildonan.
Grummore, broch N. shore of Loch Naver.	"	Farr.
Kilournan, broch $\frac{1}{2}$ mile W. by S. of, Strath of Kildonan.	"	Kildonan.
Kilphedir, broch 600 yards, E.N.E. of, near Helmsdale.	"	"
Kylestrome, cairn 150 yards S.S.W. of Leathad Carnaich, hut circles and mounds 500 yards N. of Dalhalvaig School, Strath Halladale.	"	Eddrachillis.
Lochan Druin an Duin, broch 350 yards E. of, near Invernaver.	"	Farr.
Loch Naver, broch S. shore of (750 yards W. of E. end),	"	"
Suisgill, broch $\frac{1}{2}$ mile W. by N. of, Strath of Kildonan.	"	Kildonan.
Airymhemming cairn 500 yards W.S.W. of, near Glenluce.	Wigtownshire ..	Old Luce.
Airymhemming, fort $\frac{1}{2}$ mile N.W. of, near Glenluce.	"	" "

SCOTLAND—continued

Monument.	County.	Parish.
Boreland, remains of stone circle 270 yards S. of, near Kirkcowan.	Wigtownshire	Kirkcowan.
"Brockloch Cairn," Cairn Hill, $\frac{1}{2}$ mile N.N.E. of Loch Ree, near Cairnryan	"	Inch.
"Cairn-na-Gath," Balmurrie Fell, $\frac{1}{2}$ mile N.E. of Balmurrie, near New Luce.	"	New Luce.
Carriekcamrie, fort $\frac{1}{2}$ mile S. by E. of West Cairngaun, Mull of Galloway.	"	Kirkmaiden.
"Castle Ban" (fort), Airies, near Ervie.	"	Kirkcolm.
"Caves of Kilhern" (remains of chambered cairn), 600 yards N.W. of Kilhern, near New Luce.	"	New Luce.
Chang, fort 400 yards N.N.E. of, near Mochrum.	"	Mochrum.
Chippermore, fort 400 yards S. by E. of, near Mochrum.	"	"
Claunch, cup and ring marked rock 50 yards E. of, near Sorbie.	"	Sorbie.
Corsewall Castle, Barnhills, near Kirkcolm.	"	Kirkcolm.
Craigencroy, cairn 300 yards S. by E. of West Ringuinea, near Sandhead.	"	Stoneykirk.
Culquhasen, cairn 350 yards W. of, near Glenluce.	"	Old Luce.
Doonhill, fort 250 yards N.W. of, near Sorbie.	"	Sorbie.
"Dounan of Dally" (fort), 250 yards W.S.W. of Dally, Ervie.	"	Kirkcolm.
Dunman, fort 650 yards S.S.E. of Slock Mill, near Drummore.	"	Kirkmaiden.
Dunorloch, fort $\frac{1}{2}$ mile S. by E. of West Cairngaun, Mull of Galloway.	"	"
Dunskey Castle, near Portpatrick	"	Portpatrick.
Fort Point, fort, Larbrax Moor, near Leswalt.	"	Leswalt.
Galdenoch Castle, Meikle, Galdenoch, near Leswalt.	"	"
Glenhead of Aldouran, fort 300 yards S.E. of, near Leswalt.	"	"
Grennan Point, fort 600 yards W. by S. of Drumbreddan, near Ardwell.	"	Stoneykirk.
Kenmuir, fort 700 yards N.W. of, near Sandhead.	"	"
Knock Fell, fort $\frac{1}{2}$ mile W. of Knock of Luce, near Glenluce.	"	Old Luce.
"Long Tom" (standing stone), Mill-down Hill, near Cairnryan.	"	Inch.
Middle Bridge of Cree, cairn 120 yards W. of, Bargrennan.	"	Penninghame.
Portpatrick, Old Parish Kirk	"	Portpatrick.
Pultadie, cairn 700 yards S.S.W. of, near Glenwhilly.	"	New Luce.
Sorbie, Old Tower of, near Sorbie	"	Sorbie.
South Cairnweil, standing stone 200 yards E. by S. of, near Sandhead.	"	Stoneykirk.
"Taxing Stone" (standing stone), 200 yards N.N.W. of Little Laight, near Cairnryan.	"	Inch.
"Tor of Craigoch" (fort), $\frac{1}{2}$ mile N.W. of Leswalt.	"	Leswalt.
"White Cairn," 100 yards S. of Boreland, near Kirkcowan.	"	Kirkcowan.
"White Cairn" and "Hole Stone," $\frac{1}{2}$ mile N. of Crows, N. of Malzie Bridge, near Bladnoch.	"	Kirkinner.
White Loch, lake dwelling, near Sorbie	"	Glasserton.
"Wood Cairn," Eldrig Fell, 500 yards S.S.E. of High Eldrig, near Kirkcowan.	"	Kirkcowan.

ANIMALS

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STATUTES

THE WILD BIRDS (DUCK AND GEESE) PROTECTION ACT, 1939

(2 & 3 Geo. 6, c. 19.)

An Act to provide for the further protection of wild duck and wild geese.
[393] [25th May, 1939.]

1. Extension of close season for wild duck and wild geese.—(1) The period in any year during which, under section three of the principal Act, it is unlawful—

(a) to shoot or attempt to shoot, or use a boat for the purpose of shooting or causing to be shot, any wild duck or wild goose ;
or

(b) to use any lime, trap, snare, net or other instrument for the purpose of taking any wild duck or wild goose ;

shall, instead of beginning with the second day of March and ending with the thirty-first day of July, begin with the first day of February and end with the eleventh day of August. [394]

The principal Act is the Wild Birds Protection Act, 1880 (1 Statutes 355), as since amended ; see s. 4 (a), *post*.

(2) The date in any year after which, under the said section three, it is unlawful during the said period to expose or offer for sale, or have control or possession of, any wild duck or wild goose recently killed or taken shall be the twenty-eighth day of February instead of the fifteenth day of March. [395]

(3) After the commencement of this Act—

(a) no order shall be made under the power conferred by section eight of the principal Act making any provision whereby the time during which the killing and taking of wild duck or wild geese or any kind thereof is prohibited is to begin with any date later than the first day of February or end with any date earlier than the eleventh day of August, and

(b) no order shall be made under the power conferred by section

nine of the principal Act exempting any county or any part or parts thereof from the operation of that Act as respects wild duck or wild geese or any kind thereof,

and any order made under the said sections before the commencement of this Act shall cease to have effect if and in so far as it makes any such provision or exemption as aforesaid :

Provided that nothing in this subsection shall prohibit the making after the commencement of this Act of any such order as is mentioned in the next following subsection. [396]

(4) The power of the Secretary of State under section eight of the principal Act shall include power to make an order, in pursuance of an application made under the said section after the commencement of this Act, providing that the time during which the killing and taking of wild duck and wild geese is prohibited shall begin with such date not later than the twenty-first day of February as may be specified in the order in such parts of the county or county borough to which the application relates, being parts contiguous to the low-water mark of ordinary tides, as may be so specified. [397]

2. Inclusion of wild geese in Schedule to principal Act.—(1) Subject to the provisions of this section, the principal Act shall have effect as if wild geese were included in the Schedule thereto (which contains a list of birds in the case of which owners and occupiers of land are not exempted from the provisions of section three of that Act). [398]

The principal Act is the Wild Birds Protection Act, 1880 (1 Statutes 355); see s. 4 (a), *post*.

(2) A Secretary of State may, on the representation of the council of any county, order that the foregoing subsection shall not extend to that county or any part or parts thereof. [399]

(3) Sections four and six of the Wild Birds Protection Act, 1894 (which relate to the publication of orders and the expenses of county councils) shall apply to any order made under this section as they apply to any order made under that Act. [400]

For the Wild Birds Protection Act, 1894, ss. 4, 6, see 1 Statutes 361.

3. Prohibition of importation of dead wild duck and geese during close season.—(1) It shall not be lawful for any person to import into the United Kingdom any dead wild duck or dead wild goose during the period beginning with the first day of February and ending with the eleventh day of August in any year. [401]

(2) During the period aforesaid in every year goods prohibited to be imported by virtue of this section shall be deemed to be included among the goods enumerated and described in the table of prohibitions and restrictions inwards contained in section forty-two of the Customs Consolidation Act, 1876, and the provisions of that Act and of any Act amending or extending that Act shall apply accordingly. [402]

For the Customs Consolidation Act, 1876, s. 42, see 16 Statutes 298.

(3) Paragraph (2) of section one of the Wild Birds Protection Act, 1881 (which provides that a person shall not be liable to be convicted under section three of the principal Act of exposing or offering for sale, or having the control or possession of, any wild bird recently killed, if he satisfies the court that the bird was killed in some place to which that Act does not extend), shall not apply in respect of any wild duck or wild

goose; but a person shall not be liable to be convicted as aforesaid in respect of any wild duck or wild goose if he satisfies the court before whom he is charged that the wild duck or wild goose was imported at a time when the importation thereof was not prohibited by this section.

[403]

For the Wild Birds Protection Act, 1881, s. 1 (2), see 1 Statutes 359.

4. Interpretation.—In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—

(a) “the principal Act” means the Wild Birds Protection Act, 1880, as amended by any subsequent enactment;

For the Wild Birds Protection Act, 1880, see 1 Statutes 355.

(b) “wild duck” means eider duck, mallard, pochard, sheldrake, shoveller, smew, teal, widgeon, and wild duck of any other species whatsoever, except merganser and goosander;

(c) “wild goose” means a wild goose of any species whatsoever.

[404]

5. Short title, citation and extent.—(1) This Act may be cited as the Wild Birds (Duck and Geese) Protection Act, 1939, and may be cited together with the Wild Birds Protection Acts, 1880 to 1908, as the Wild Birds Protection Acts, 1880 to 1939.

(2) This Act shall come into operation on the first day of August, nineteen hundred and thirty-nine.

(3) Sections one and two and subsection (3) of section three of this Act shall not extend to Northern Ireland. [405]

THE PREVENTION OF DAMAGE BY RABBITS ACT, 1939

(2 & 3 Geo. 6, c. 43.)

ARRANGEMENT OF SECTIONS

PART I

PREVENTION OF DAMAGE BY RABBITS

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PART III

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An Act to make provision for the prevention of damage by rabbits; and to amend the law relating to the use of poison and the use of spring traps above ground for the purpose of killing hares or rabbits. [406]

[28th July, 1939.]

PART I

PREVENTION OF DAMAGE BY RABBITS

1. Power of local authorities to require prevention of damage by rabbits.—(1) Where, by reason of the presence of an excessive number of rabbits on land in the occupation of any person, substantial damage is being caused or is likely to be caused to crops, trees, shrubs, pasturage, fences, banks or works on land in the occupation of any other person, the council of the county or county borough in which the first mentioned land or any part thereof is situate may, on a complaint made to them by that other person, serve on the occupier of that land a notice in writing requiring that within such reasonable time, not being less than twenty-one days, as may be specified in the notice he shall—

(a) in a case in which the land is a warren kept for the purpose of breeding rabbits, so fence the warren as to prevent, so far as is reasonably practicable, the escape of rabbits therefrom ;
or

(b) in any other case, take such steps as are reasonably practicable for the destruction of the rabbits ;

and if an occupier upon whom such a notice is served fails to comply with the requirements thereof, he shall be liable on summary conviction to a fine not exceeding twenty-five pounds, and to a further fine not exceeding five pounds for each day on which the failure continues after conviction :

Provided that, where a notice has been served under this subsection in relation to any land, no further notice shall be so served in relation to that land until the time specified in the first mentioned notice has expired, or the notice has been withdrawn, whichever event first occurs.

[407]

For special definition of "occupier," see s. 6 (2), *post*. Note that this Act does not apply to the administrative County of London ; see s. 6 (3), *post*.

(2) Where a person incurs any expense necessary for the purpose of compliance with the requirements of a notice served on him under the preceding subsection, then, if he alleges that the expense ought to be borne wholly or in part by some other person having an interest in the land to which the notice relates, he may apply to the county court in accordance with rules of court, and the court, after hearing the parties and any witnesses whom they desire to call, may make such order for securing that the applicant is wholly or in part indemnified by that other person in respect of the said expense as the court considers just and equitable in the circumstances of the case. [408]

(3) Where a notice is served by a council under subsection (1) of this section, any person authorised in writing by the council may, on giving not less than forty-eight hours' notice to the occupier on whom the notice under the said subsection was served, and (if the land to which the notice relates is the subject of a tenancy, and the name and address of the landlord within the meaning of the Agricultural Holdings Act, 1923, are known to the council) to the landlord, enter on the land for the purpose of ascertaining whether or not the requirements of the notice are being or have been complied with ; and any person who, after having had produced to him the written authority of any person so authorised, obstructs him in the exercise of his powers under this sub-

section, shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten pounds. [409]

For the Agricultural Holdings Act, 1923, see 1 Statutes 80.

2. Power of local authorities to assist occupiers of land to destroy rabbits.—(1) The council of any county or county borough may, for the purpose of assisting occupiers of land within the county or borough to take any necessary steps to reduce the number of rabbits on land in their occupation, employ such persons and provide such equipment, appliances and other material as appear to the council to be requisite for that purpose. [410]

(2) A council may make such reasonable charge, if any, as they think fit in respect of services rendered by persons employed by the council under the foregoing subsection, and the use of such equipment, appliances and other material as aforesaid, and may recover the amount of the charge summarily as a civil debt from the occupier of the land. [411]

3. Service of notices.—Any notice under this Part of this Act may be served by post. [412]

PART II

AMENDMENTS OF LAW RELATING TO KILLING OF HARES AND RABBITS

4. Provisions as to use of poison in rabbit holes.—A person shall not be guilty of an offence under section eight of the Protection of Animals Act, 1911, by reason only that he uses poisonous gas in a rabbit hole, or places in a rabbit hole a substance which, by evaporation or in contact with moisture, generates poisonous gas. [413]

For s. 8 of the Protection of Animals Act, 1911, see 1 Statutes 377.

5. Prohibition of use of spring traps above ground.—(1) If, for the purpose of killing hares or rabbits, any person uses or knowingly permits the use of a spring trap, except in a rabbit hole, he shall be liable on summary conviction to a fine not exceeding twenty pounds, or in the case of a person convicted of a second or subsequent offence under this section to a fine not exceeding fifty pounds. [414]

(2) So much of section six of the Ground Game Act, 1880, as provides that no person having a right to kill ground game shall, for the purpose of killing ground game, employ spring traps except in rabbit holes, or employ poison shall cease to have effect. [415]

For s. 6 of the Ground Game Act, 1880, see 8 Statutes 1099.

PART III

SUPPLEMENTARY PROVISIONS

6. Short title, interpretation and extent.—(1) This Act may be cited as the Prevention of Damage by Rabbits Act, 1939. [416]

(2) In this Act the expression "occupier" includes in relation to any land any person who, by virtue of any interest which he has in that land, is entitled to kill the rabbits thereon. [417]

(3) This Act shall not extend to Scotland, to Northern Ireland or to the administrative county of London. [418]

THE RIDING ESTABLISHMENTS ACT, 1939

(2 & 3 Geo. 6, c. 56.)

An Act to provide for the inspection of riding establishments; and for other purposes connected therewith. [419] [4th August, 1939.]

1. Power to enter premises and require production of certificates.—

(1) A local authority may authorise in writing any duly registered veterinary surgeon to inspect any premises which they have reason to believe are used as a riding establishment, and any duly registered veterinary surgeon so authorised shall, on producing, if so required, his authority, have the right at all reasonable times to enter those premises and to inspect such parts thereof and such horses found thereon as he may consider necessary for the purpose of ascertaining whether any offence under this Act is being or has been committed on or in connection with those premises or in connection with any such horse. [420]

(2) A local authority may pay any duly registered veterinary surgeon a reasonable fee in respect of any exercise of his powers under this section. [421]

2. Offences and legal proceedings.—(1) If any person—

(a) lets out any horse on hire for riding at a time when the horse is in such a condition that the riding thereof will be likely to cause suffering to the horse; or

(b) uses any horse for providing, in return for payment, instruction in riding at a time when the horse is in such a condition that its use for that purpose will be likely to cause suffering to the horse; or

(c) keeps any horse which is used for the purpose of being let out on hire for riding or of providing, in return for payment, instruction in riding, in so neglected a state or in such conditions that suffering is, or is likely to be, caused to the horse; or

(d) wilfully obstructs or delays any duly registered veterinary surgeon in the exercise of his powers of entry or inspection under this Act; or

(e) with intent to avoid such inspection conceals any horse;

he shall be guilty of an offence under this Act and shall be liable on summary conviction to a fine not exceeding twenty-five pounds for the first offence and not exceeding fifty pounds for any subsequent offence. [422]

(2) No prosecution shall be brought for an offence under this Act except by a local authority, and a local authority shall not bring any such prosecution unless they have received and considered such a report from a duly registered veterinary surgeon as they may think appropriate in the circumstances of the case. [423]

(3) Any document stating that a local authority have received and considered such a report from a duly registered veterinary surgeon as they think appropriate in the circumstances of the case, shall, if it purports to be signed by an officer of the authority purporting to have authority to sign the document, be evidence that the authority have received and considered such a report as they are required under this Act to receive and consider before giving any such consent as aforesaid. [424]

3. Interpretation and expenses.—(1) In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say :—

"Horse" includes any mare, gelding, pony, foal, colt, filly or stallion, and also any ass ;

"Local authority" means, as respects the City of London, the common council, as respects the remainder of the administrative county of London, the London County Council, as respects any county borough, and also as respects any non-county borough or urban district which has according to the last published census for the time being a population of twenty thousand or upwards, the council of the borough or urban district, and as respects any other area, the council of the county ;

"Riding establishment" means any stables or other premises whatsoever at which horses are kept for the purpose of being let out on hire for riding or of being used in providing in return for payment instruction in riding, but shall not include any such establishment, conducted solely for military or police purposes or by the Zoological Society of London. [425]

(2) Any expenses of a local authority under this Act shall be defrayed, in the case of the common council of the City of London, out of the general rate, and in the case of the London County Council, out of the County Fund. [426]

(3) Any expenses incurred under this Act by a county council (other than the London County Council) shall, if the council are not for the purposes of this Act the local authority for the whole county, be defrayed as expenses for special county purposes charged on those county districts the councils of which are not local authorities for the purposes of this Act. [427]

4. Short title, commencement and extent.—(1) This Act may be cited as the Riding Establishments Act, 1939.

(2) This Act shall come into operation on the first day of January, nineteen hundred and forty.

(3) This Act shall not extend to Northern Ireland or Scotland. [428]

ORDERS, CIRCULARS AND MEMORANDA

FOREIGN HAY AND STRAW (AMENDMENT)

ORDER, 1939 (NO. 1)

S.R. & O. 1939 No. 116

(5821)

February 7, 1939

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1937, and of every other power enabling him in his behalf, hereby orders as follows :—

Withdrawal of Prohibition of Landing of Hay and Straw from Estonia

1. The Foreign Hay and Straw Order of 1912 shall be read and have effect as if Estonia were included in the Schedule (*Countries from which Importation is not Prohibited*) to that Order.

Commencement and Short Title

2. This Order, which may be cited as the Foreign Hay and Straw (Amendment) Order of 1939 (No. 1) shall come into operation on the fourteenth day of February, nineteen hundred and thirty-nine.

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[429]

FOREIGN HAY AND STRAW (AMENDMENT) ORDER, 1939 (NO. 2)

S. R. & O., 1939, No. 325

(5837)

March 16, 1939

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1937, and of every other power enabling him in this behalf, hereby orders as follows :—

Withdrawal of Prohibition on landing of hay and straw from Norway

1. The prohibition on the landing in Great Britain of hay and straw brought from Norway which was imposed by the Foreign Hay and Straw (Amendment) Order of 1938 (No. 9) is hereby withdrawn and the Foreign Hay and Straw Order of 1912 shall be read and have effect as if "Norway" were re-inserted in the Schedule (Countries from which Importation is not Prohibited) to that Order.

Revocation of Order

2. The Foreign Hay and Straw (Amendment) Order of 1938 (No. 9) is hereby revoked.

Commencement and Short Title

3. This Order, which may be cited as the Foreign Hay and Straw (Amendment) Order of 1939 (No. 2) shall come into operation immediately.

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[430]

TRANSIT OF ANIMALS (AMENDMENT) ORDER, 1939

S. R. & O., 1939, No. 501

(5842)

April 26, 1939

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1937, and of every other power enabling him in this behalf, hereby orders as follows :—

Amendment of definition of expression "dealer"

1. The Transit of Animals Order of 1927 and the Transit of Animals (Amendment) Order of 1931 shall be read and have effect as if the following definition of the expression "dealer" were substituted for the definition of that expression contained in Article 1 of the first-mentioned Order :—

"Dealer" means a person habitually engaged in the trade or business of selling animals purchased by him for resale and not for the purpose of rearing, milking, fattening or breeding.

Commencement

2. This Order shall come into operation on the eighth day of May, nineteen hundred and thirty-nine.

Short Title

3. This Order shall be cited as the Transit of Animals (Amendment) Order of 1939.

* * * * *

[431]

FOOT-AND-MOUTH DISEASE (SERA AND GLANDULAR PRODUCTS) ORDER, 1939*S. R. & O., 1939, No. 707*

(5853)

June 26, 1939

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Act, 1894 to 1937, and of every other power enabling him in this behalf, hereby orders as follows :—

Regulation of the use of sera and other substances

1. (1) No person shall treat any cattle, sheep, goats, other ruminating animals or swine with any glandular extract or serum, unless the substance was sold or supplied to him in a vessel, container, or package bearing a label containing the following words, namely :—

“ The use of this preparation for veterinary purposes is authorised under the Foot-and-Mouth Disease (Sera and Glandular Products) Order of 1939.”

(2) No such label shall be applied to any vessel, container or package containing any such substance as aforesaid except by a person for the time being authorised by the Minister so to do or otherwise than in accordance with such conditions as the Minister may from time to time determine.

(3) The Minister may at any time withdraw any authorisation granted by him as aforesaid.

Offences

2. Any person committing or aiding, abetting, counselling or procuring the commission of any breach of the provisions of this Order or of any conditions or requirements of any authority granted thereunder is liable on summary conviction to the penalties provided by the Diseases of Animals Acts, 1894 to 1937.

Local Authority to enforce Order

3. The provisions of this Order shall, except where it is otherwise provided, be executed and enforced by the Local Authority.

Commencement and Short Title

4. This Order shall come into operation on the tenth day of December, nineteen hundred and thirty-nine, and may be cited as the Foot-and-Mouth Disease (Sera and Glandular Products) Order of 1939.

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[432]

IMPORTATION OF MEAT, ETC. (WRAPPING MATERIALS) (AMENDMENT) ORDER, 1939*S. R. & O., 1939, No. 1725*

(5891)

November 25, 1939

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him by the Diseases of Animals Acts, 1894 to 1937, and of every other power enabling him in this behalf, hereby orders as follows :—

Marking of Imported Meat Wrappers

1. Article 1 of the Importation of Meat, etc. (Wrapping Materials)

Order of 1932, hereinafter referred to as the principal Order, is hereby revoked and the following Article is substituted therefor :—

(1) The landing in Great Britain from a prohibited country of meat or offals is hereby prohibited if they are packed or wrapped in cloths, bags, sacking or like material not being bags or wrappers wholly made of :—

(a) Jute, hemp, flax, or other cloth either manufactured with three red threads woven together at intervals of twelve inches in the warp or having on both sides thereof painted, printed or stencilled, at intervals of twelve inches, indelible red stripes three eighths of an inch in width extending the whole length or width of the cloth ; or

(b) Jute, hemp, flax or other cloth on both sides of which the words " Imported Meat " have been painted, printed or stencilled in indelible red or black colouring in letters of at least 3 inches in height in such a manner that the words appear in continuous lines not more than 12 inches apart ; or

(c) Stockinette ; or

(d) Paper.

Amendment of Articles 2 and 3 of principal Order

2. The references in Articles 2 and 3 of the principal Order to any cloth mentioned in paragraph (a) of Article 1 of that Order shall be construed as references to any cloth mentioned in paragraphs (a) and (b) of Article 1 of the principal Order as amended by this Order.

Commencement and Short Title

3. This Order shall come into operation on the ninth day of December, nineteen hundred and thirty-nine and may be cited as the Importation of Meat, etc. (Wrapping Materials) (Amendment) Order of 1939.

* * * * *

[433]

IMPORTATION OF CANADIAN CATTLE (AMENDMENT) ORDER, 1939

S. R. & O., 1939, No. 1699

(5888)

November 17, 1939

Whereas by Article 3 of the Importation of Canadian Cattle Order of 1933, as amended by the Importation of Canadian Cattle (Amendment) Order of 1933, it is provided that Canadian cattle shall not be landed in Great Britain unless and until there is delivered to a proper Officer of Customs and Excise in addition to the declaration prescribed by the Article a certificate signed by a duly authorised Officer of the Dominion of Canada that (among other things) the cattle were, before shipment, marked by securely affixing to the left ear of each animal a tag of a pattern approved by the Minister with the letter " C " and a serial number stamped thereon.

Now, the Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1937, and of every other power enabling him in this behalf, hereby orders that the said provision of Article 3 of the Importation of Canadian Cattle Order of 1933, shall be read and have effect as if the words " bearing stamped thereon the letters H. of A.

on one side and a prefix letter and a serial number on the other side " were substituted for the words " with the letter ' C ' and a serial number stamped thereon ".

This Order shall come into operation on the first day of December, nineteen hundred and thirty-nine, and may be cited as the " Importation of Canadian Cattle (Amendment) Order of 1939 ".

* * * * *

[431]

WILD BIRDS PROTECTION (COUNTY BOROUGH OF BLACKPOOL) ORDER, 1939

S. R. & O., 1939, No. 623

May 30, 1939

In pursuance of the powers conferred on me by the Wild Birds Protection Acts, 1880 to 1908, and upon application by the Council of the County Borough of Blackpool, I hereby make the following Order :—

TITLE

I. This Order may be cited as " The Wild Birds Protection (County Borough of Blackpool) Order, 1939 ".

BIRDS

All Birds protected throughout the County Borough during the whole of the Year

II. During that period of the year to which the protection afforded by the Wild Birds Protection Act, 1880, does not extend, the taking or killing of all Wild Birds is prohibited throughout the County Borough of Blackpool.

Additions to the Schedule to the Act of 1880

III. The Wild Birds Protection Act, 1880, shall apply within the County Borough of Blackpool to the following species of Wild Birds in the same manner as if those species were included in the Schedule to the Act :—

Blackbird,	Tree Pipit,
Bullfinch,	Golden Plover,
Reed Bunting,	Redwing,
Yellow Bunting (Yellow	Robin,
Hammer),	Hedge Sparrow,
Chaffinch,	Tree Sparrow,
Chiffchaff,	Swallow,
Dipper,	Mistle Thrush,
Fieldfare,	Song Thrush,
Spotted Flycatcher,	Tit (all species),
Goldcrest,	Treecreeper,
Hen Harrier,	Wagtail (all species),
Marsh Harrier,	Grasshopper Warbler,
Montagu's Harrier,	Sedge Warbler,
Kestrel,	Willow Warbler,
Kite,	Wood Warbler,
Linnet,	Waxwing,
House Martin,	Wheatear,
Merlin,	Whitethroat,
Moorhen (Water Hen),	Wren.
Meadow Pipit,	

EGGS

Certain Eggs protected throughout the County Borough

IV. The taking or destroying of the Eggs of the following species of Wild Birds is prohibited throughout the County Borough of Blackpool.

Blackbird,
Yellow Bunting (Yellow
Hammer),
Chaffinch,
Dipper,
Spotted Flycatcher,
Lapwing (Peewit or Green
Plover),
Skylark,
House Martin,
Owl (all species),
Robin,

Hedge Sparrow,
Tree Sparrow,
Swallow,
Mistle Thrush,
Song Thrush,
Tit (all species),
Treetreeper,
Pied Wagtail,
Willow Warbler,
Whitethroat,
Wren.

Repeal of former Order

V. The Order of the 2nd November, 1925, is hereby repealed.

* * * * *

[435]

APPROVED SCHOOLS

See INFANTS, CHILDREN AND YOUNG PERSONS.

AUTHORITIES, CONSTITUTION OF

See ELECTIONS.

BATHS AND WASHHOUSES

See ACTIONS BY AND AGAINST LOCAL AUTHORITIES.

BILLETING

See EVACUATION AND BILLETING.

BLIND PERSONS

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STATUTES

THE NATIONAL SERVICE (ARMED FORCES) ACT, 1939

(2 & 3 Geo. 6, c. 81)

An Act to make provision for securing and controlling the enlistment of men for service in the armed forces of the Crown ; and for purposes connected with the matter aforesaid. [3rd September, 1939.]

* * * * *

11.—**Classes of persons not subject to Act.**—(1) No person shall be liable under this Act to be called up for service who . . .

* * * * *

(g) is certified by a local authority, as defined by the Blind Persons Acts, 1920 and 1938, to be registered as a blind person under arrangements made by the Authority under those Acts.

For the Blind Persons Acts, 1920 and 1938, see 20 Statutes 598, and 81 Statutes 812.

* * * * *

[436]

BRIDGES

CASES :—	PAGE	PAGE
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CASES

Repairs—Bridge Carrying Road over Railway—Liability of Railway Company for Non-feasance—Extent of Liability to Repair—Railways Clauses Consolidation Act, 1845 (c. 20), s. 46.—Public Authorities—Limitation of Actions—Whether Railway Company a Public Authority—Public Authorities Protection Act, 1893 (c. 67), s. 1.

Plaintiff, a steam-crane driver, in proceeding to his work on his bicycle, had to cross a bridge belonging to defendant company. The road over it and the approach thereto were alleged to be in a bad state of repair, there being several potholes and a rut, about 2 feet from the near side, several inches deep in some places, extending a number of yards from the crown of the bridge down the incline, and said to have been caused in the course of time by rainwater. Plaintiff's machine got into the rut and he was thrown to the ground and suffered severe injuries to his head. It was found as a fact that the accident was caused by the want of repair of the road over the bridge. The claim was based on negligence, nuisance, and breach of the statutory duty of defendants to maintain the road on the bridge and the approach thereto. The bridge had been constructed by defendants' predecessors under the South Western Exeter Extension Act, 1856, incorporating the Railways Clauses Consolidation Act, 1845. It was contended on

behalf of defendants (i) that defendants were in a position similar to that of a highway authority, and were not liable for non-feasance; (ii) that they were entitled to the benefit of the Public Authorities Protection Act, 1893; (iii) that they were only liable to maintain the road over the bridge for the purposes of the traffic using the road in the year in which it was constructed:—

Held: (i) by the Railways Clauses Consolidation Act, 1845, s. 46, the company were liable for non-feasance as well as misfeasance;

(ii) a railway company is not a public authority within the meaning of that term as used in the Public Authorities Protection Act, 1893, s. 1;

(iii) the road was in fact in a condition which would have been dangerous to traffic as it was at the date at which the bridge was constructed; but the duty of a railway company under the Railways Clauses Consolidation Act, 1845, s. 46, is to maintain the bridge and its approaches in the state they are when constructed in accordance with that section, and that necessarily implies an absence of dangerous ruts.—*SWAIN v. SOUTHERN RAILWAY CO.*, [1939] 2 K. B. 560, [1939] 2 All E. R. 794; 108 L. J. K. B. 827; 44 T. L. R. 805; 83 Sol. Jo. 476; Digest Supp.—C. A. [437]

Riparian Owners—Interference with Flow of Water by Works Executed under Statutory Powers—Reasonable Steps to Avoid Interference—Onus of Proof.

Respondent company and their predecessors in business had for many years carried on the business of millers at a mill which was situated on a river and which derived its water power from that river. Appellant council were responsible for the upkeep of a bridge carrying the highway over a stream which ran parallel to the river, and for the protection of the bridge, and, acting under statutory powers, appellant council rebuilt an existing culvert so as to give greater support to the road, and also made an entirely new culvert, so as to provide a means of outlet for flood water:—

Held: (i) appellants had failed to show that, for the purpose of protecting themselves against flooding, it was necessary to effect a permanent diminution in the quantity of water going to respondents' mill;

(ii) in carrying out works of protection, it is not legitimate to alter the alveus of the stream;

(iii) the making of a new watercourse is a different matter from the mere removal of an obstruction;

(iv) appellants failed to discharge the onus resting upon them of showing that the repairing of the bridge and the protecting of the highway against flooding could not have been done without permanently altering the normal flow of the river to the prejudice of persons interested in that flow.—*PROVENDER MILLERS (WINCHESTER) LTD. v. SOUTHAMPTON COUNTY COUNCIL*, [1940] 1 Ch. 131; [1939] 4 All E. R. 157; 109 L. J. (Ch.) 11; 161 L. T. 363; 103 J. P. 401; 56 T. L. R. 74; 83 Sol. Jo. 870; Digest Supp.—C. A. [438]

BUILDING

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STATUTES

THE ESSENTIAL BUILDINGS AND PLANT
(REPAIR OF WAR DAMAGE)
ACT, 1939

(2 & 3 GEO. 6, c. 74)

PRELIMINARY NOTE

The Essential Buildings and Plant (Repair of War Damage) Act, 1939, came into operation on 1st September, and is not limited in duration.

It makes provision for the repair of buildings used for purposes essential to the welfare of the civil population, and for the reinstatements of the plant of undertakings carried on for these purposes which have been damaged by war.

A local authority may represent to the appropriate Minister that a building, used for purposes essential to the welfare of the civil population has, through war damage, become wholly or partly incapable of such use and can be rendered fit at a reasonable cost, and that lack of similar buildings makes it essential that the building be rendered fit

If the Minister, whether on such representations or otherwise, is satisfied as to these facts :

- (1) in the case of a local authority occupier, or owner, he may (with the approval of the Treasury) lend money for the purpose of rendering the building fit, or in urgent cases by notice require the works to be carried out, and lend the necessary money,
- (2) in the case of any other owner or occupier, he (with the approval of the Treasury) or the housing authority may loan the necessary money, provided the owner or occupier is willing, but unable without financial help, to do the repairs,
- (3) in the case of certain buildings listed in section 1 (5), provided repairs are urgent and the owner or occupier is not a local authority and is willing, but unable without financial help, to do the work, he may by notice require the housing authority to do the work or advance the necessary money (which can be recovered after the war).

The Minister may, with the approval of the Treasury, make a loan to a housing authority equivalent to the loan made by them under (2) or (3) above.

Where war damage to plant has rendered an undertaking wholly or partly incapable of being carried on for essential purposes, the Minister, when satisfied of the fact that reinstatement can be effected at a reasonable cost, and that lack of such undertakings make it essential that the plant should be reinstated, and that the person carrying on the undertaking (not a local authority) is financially unable to do the work of reinstatement, may with the approval of the Treasury, lend the necessary money.

Provision is made in section 3 for securing the money lent,

- (a) to a local authority on terms fixed with the approval of the Treasury ;

- (b) to a person not a local authority, by means of a charge on the premises of the undertaking ;
- (c) to a company, by a floating charge on the undertaking of the company (section 3).

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SCHEDULE.—Provisions as to charges to secure loans in respect of plant (other than loans to local authorities and companies).

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An Act to provide for the repair of buildings used for purposes essential to the welfare of the civil population, and the reinstatement of the plant of undertakings carried on for such purposes, where the buildings or plant are damaged by war. [489] [1st September 1989.]

1. Loans for repairs to buildings.—(1) Where the appropriate Minister is satisfied on the representations of a local authority or otherwise—

- (a) that any building used for purposes which, in the opinion of the appropriate Minister, are essential to the welfare of the civil population has become wholly or partly incapable of use for those purposes by reason of war damage ; and
- (b) that the building can be rendered fit to be used for those purposes (hereafter in this section referred to as “ the essential purposes ”) at a reasonable cost ; and
- (c) that lack of buildings available for the said purposes makes it essential that the building should be rendered so fit ;

the following provisions of this section shall have effect :

Provided that nothing in this section shall apply to a building used solely for housing purposes. [440]

(2) Where a local authority is an owner or occupier of the building (whether or not some other person is an owner or occupier thereof)—

- (a) the appropriate Minister may, with the approval of the Treasury, lend to that authority such money as appears to him to be necessary for carrying out the works which in his opinion will render the building fit to be used for the essential purposes ;
- (b) if the appropriate Minister considers that it is essential for the welfare of the civil population that certain works should be carried out forthwith, he may—

- (i) by notice require the said authority, or in special circumstances the housing authority in whose area the building is situated, to carry out those works ; and

(ii) with the approval of the Treasury, lend to the authority so required such money as in his opinion is necessary to enable the authority to comply with the requirement. [441]

(3) Where some person other than a local authority is an owner, or occupier of the building (whether or not a local authority is an owner or occupier thereof)—

- (a) the appropriate Minister (with the approval of the Treasury) or the housing authority in whose area the building is situated, may lend to that person such money as appears to that Minister to be necessary for carrying out the works which in the opinion of that Minister will render the building fit to be used for the essential purposes ; and
- (b) where such money is lent to that person by that housing authority, the appropriate Minister may, with the approval of the Treasury, lend an equivalent amount to that authority :

Provided that no loan shall be made to any person under paragraph (a) of this subsection unless the appropriate Minister or the housing authority, as the case may be, is satisfied that that person is willing, but unable without financial assistance, to carry out the said works. [442]

(4) Where—

- (a) the building is a building to which this subsection applies and no local authority is an owner or occupier thereof ; and
- (b) the appropriate Minister considers that it is essential for the welfare of the civil population that certain works should be carried out forthwith ; and
- (c) any person being an owner or occupier of the building is willing for those works to be carried out but is unable to carry them out without financial assistance ;

then—

- (i) the appropriate Minister may by notice require the housing authority in whose area the building is situated either to carry out the said works themselves or to lend to the person so willing such money as appears to that Minister to be necessary for carrying out those works ;
- (ii) the appropriate Minister may, with the approval of the Treasury, lend to the said housing authority any money required by the authority for the purpose of complying with the said notice ;
- (iii) where the works are carried out by the housing authority, the provisions of subsections (3), (4), (5) and (6) of section ten of the Housing Act, 1936 (which relate to the recovery of expenses incurred by an authority under that section) shall have effect as if references to that section included references to this subsection, and as if references to a house included references to a building :

Provided that no demand for expenses incurred in carrying out the said works shall be made under sub-

section (3) of the said section ten until the end of the period of the present emergency. [443]

(5) The last foregoing subsection applies to the following buildings, namely—

- (a) buildings used as hospitals or first-aid posts or otherwise for civil defence purposes ;
- (b) buildings used as schools or other educational establishments ; and
- (c) buildings of any other class to which the Minister of Health may by order declare that the said subsection applies. [444]

(6) Any order made by the Minister of Health as aforesaid may be varied or revoked by a subsequent order made by him. [445]

The following expressions in this section are defined by section 4 (1) :—

“ appropriate Minister ” (and see section 4 (2)) ; “ local authority ” ; “ building ” ; “ war damage ” ; “ owner ” ; “ housing authority ”.

The expression “ Essential to the welfare of the civil population ” is not defined, but depends upon the opinion of the appropriate Minister ; but it is clearly confined to essential services, and residential buildings are excluded by the proviso to subsection (1). Observe, however, the particular buildings listed in subsection (5), and that, where they are not owned or occupied by a local authority, the procedure applied to them under subsection (4) is different from that applied generally under subsections (2) and (3). No order extending the list in subsection (5) has been issued by the Minister of Health at the time of going to press.

When the appropriate Minister requires work to be done by the housing authority under subsection (4), the authority may recover the costs under the Housing Act, 1936, section 10, after the end of the present emergency. Subsections (3) to (6) of section 10 provide as follows :—

“(3) Any expenses incurred by the local authority under this section, together with interest, at such rate as the Minister may with the approval of the Treasury from time to time by order fix, from the date when a demand for the expenses is served until payment may, subject as hereinafter provided, be recovered by them, by action or summarily as a civil debt, from the person having control of the house or, if he receives the rent of the house as agent or trustee for some other person, then either from him or from that other person, or in part from him and as to the remainder from that other person ;

Provided that, if the person having control of the house proves that he—

- (a) is receiving the rent merely as agent or trustee for some other person ; and
- (b) has not, and since the date of the service on him of the demand has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority ;

his liability shall be limited to the total amount of the money which he has, or has had, in his hands as aforesaid.

(4) In all summary proceedings by the local authority for the recovery of any such expenses, the time within which the proceedings may be taken shall be reckoned from the date of the service of the demand or, if an appeal is made against that demand, from the date on which the demand becomes operative.

(5) The local authority may by order declare any such expenses to be payable by weekly or other instalments within a period not exceeding thirty years with interest at such rate as the Minister may, with the approval of the Treasury, from time to time by order fix, from the date of the service of the demand until the whole amount is paid, and any such instalments and interest, or any part thereof, may be recovered summarily as a civil debt from any owner or occupier of the house, and, if recovered from an occupier, may be deducted by him from the rent of the house.

(6) The amount of any expenses and interest thereon due to a local authority under this section shall be a charge on the premises in respect of which the expenses were incurred, and the local authority shall for the purpose of enforcing that charge have all the same powers and remedies under the Law of Property Act, 1925, and otherwise as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.”

2. Loans for reinstatement of plant.—Where the appropriate Minister is satisfied, on the representations of a local authority or otherwise—

- (a) that any undertaking, carried on wholly or partly for purposes which, in the opinion of the appropriate Minister, are essential to the welfare of the civil population, has become wholly or partly incapable of being carried on for those purposes by reason of the occurrence of war damage to any plant used for the purposes of the undertaking ; and

- (b) that the plant can be repaired or replaced at a reasonable cost ; and
- (c) that lack of undertakings carried on for the said purposes makes it essential that the plant should be repaired or replaced ; and
- (d) in a case where the undertaking is being carried on by some person other than a local authority, that that person is willing, but unable without financial assistance, to repair the plant ;

the appropriate Minister may, with the approval of the Treasury, lend to the person carrying on the undertaking such money as appears to the appropriate Minister to be necessary for repairing or replacing the plant so as to enable the undertaking to be carried on [446]

The following expressions in this section are defined by section 4 (1), *post* :—

“ appropriate Minister ” (see also section 4 (2)) ; “ local authority ” ; “ war damage ” ; “ plant ”.

For the terms of loans, see the next section.

3. Terms of loans, &c.—(1) Any loan made under this Act by the appropriate Minister or a local authority shall be made on such terms as may (subject to the provisions of this section) be fixed by the appropriate Minister with the approval of the Treasury, and, notwithstanding anything in any enactment or other instrument, any local authority or other person to whom a loan may be made under this Act shall be deemed to have power to borrow the amount of the loan for the purpose for which it is made on the terms so fixed. [447]

(2) Any sums required by the appropriate Minister for the purpose of a loan under this Act shall be paid out of moneys provided by Parliament, and any sums received by the appropriate Minister by way of repayment of a loan under this Act, or by way of interest thereon, shall be paid into the Exchequer. [448]

(3) Any loan made under section one of this Act by the appropriate Minister or a housing authority to any person not being a local authority shall be a charge on the premises in respect of which the loan is made, and the appropriate Minister or housing authority shall, for the purpose of enforcing that charge, have all the same powers and remedies under the Law of Property Act, 1925, and otherwise as if they were mortgagees by deed having powers of sale and lease, powers of accepting surrenders of leases and powers of appointing a receiver. [449]

(4) Where a loan is made under section two of this Act to a company as defined by section three hundred and eighty of the Companies Act, 1929—

- (a) the loan shall be secured by a floating charge on the undertaking of the company created by a debenture in such form and containing such conditions as the appropriate Minister, with the approval of the Treasury, may determine ;
- (b) notwithstanding anything in section seventy-nine of that Act—

- (i) the said charge shall not be void for want of registration within the twenty-one days mentioned in that section except against a creditor in respect of a debt secured by a

charge which is duly registered for the purpose of that section after the end of those twenty-one days and before the date when the first-mentioned charge is so registered ; and

(ii) where the said charge is void under the foregoing sub-paragraph, the money secured thereby shall not immediately become payable. [450]

(5) Where a loan is made under section two of this Act to a person not being such a company as aforesaid or a local authority—

(a) the loan shall be secured by a charge which shall be created and have effect in accordance with the provisions of Part I of the Schedule to this Act ;

(b) if the said charge is not registered with the Chief Land Registrar in accordance with regulations made under Part II of that Schedule within twenty-one days after the date of its creation, it shall be void against a creditor in respect of a debt secured by a charge which is duly created by the borrower after the end of the said twenty-one days and before the date when the first-mentioned charge is so registered. [451]

(6) Notwithstanding the provisions of any enactment or other instrument or any rule of law, any charge created in accordance with the provisions of paragraph (a) of either of the last two foregoing subsections shall have priority over any other charge (whenever created) affecting the property comprised therein :

Provided that nothing in this subsection shall affect the provisions of section thirty-three of the Bankruptcy Act, 1914, or sections seventy-eight or two hundred and sixty-four of the Companies Act, 1929, as amended by any subsequent enactment (which relate to preferential payments in the event of bankruptcy or the appointment of a receiver or winding up of a company). [452]

The following expressions in this section are defined by section 4 (1), *post* :—“ appropriate Minister ” (and see section 4 (2)) ; “ local authority ”.

See section 101 of the Law of Property Act, 1925 (15 Statutes 283) and Halsbury's Laws of England, 2nd Edition, Vol. 23, pp. 354 *et seq.* (rights of mortgagee), and 420 *et seq.* (remedies of mortgagee).

As to borrowing by local authorities, see sections 195 *et seq.* of the Local Government Act, 1933 (26 Statutes 412) and Halsbury's Laws of England, 2nd Edition, Vol. 21, pp. 209 *et seq.*

By section 380 of the Companies Act, 1929 :—

“ ‘ Company ’ means a company formed and registered under this Act or an existing company ”.

Floating charges on the undertaking of a company created by debentures are discussed in Halsbury's Laws of England, 2nd Edition, Vol. 5, pp. 480 *et seq.* For the provisions of section 79, which deals with the registration of charges created by companies registered in England, see 2 Statutes 822.

Note the proviso to subsection (6) which preserves preferential payments under the Bankruptcy Act, 1914, section 33 (1 Statutes 638), and the Companies Act, 1929, sections 78 and 264 (2 Statutes 821, 945).

4. Interpretation.—(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say—

“ appropriate Minister ” means, in relation to any building or undertaking, the Secretary of State or other Minister in charge of the Government Department concerned with the purposes for which the building is used or the undertaking is carried on ;

“ building ” includes any land used with a building ;

"housing authority" means the council of a county borough, county district or metropolitan borough or the Common Council of the City of London;

"local authority" means the council of a county, county borough, county district or metropolitan borough, or the Common Council of the City of London, or a joint board or joint committee constituted under any enactment to discharge the functions of two or more such councils;

"owner", in relation to a building, does not include a mortgagee not in possession, but includes a person entitled to the rents and profits of the building under a lease or agreement the unexpired term whereof exceeds three years;

"period of the present emergency" means the period beginning with the date of the passing of this Act and ending with such day as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of this Act came to an end;

"plant" includes works other than buildings;

"war damage" means damage caused by, or in repelling, enemy action or by measures taken to avoid the spreading of the consequences of damage caused by, or in repelling, enemy action.

[453]

(2) If any question arises as to who was or is the appropriate Minister in relation to any building or undertaking, the question shall be referred to and determined by the Treasury, whose decision shall for all purposes be final. [454]

5. Application to Scotland. [455]

6. Provision as to Northern Ireland. [456]

7. Short title and extent.—(1) This Act may be cited as the Essential Buildings and Plant (Repair of War Damage) Act, 1939.

(2) No provision of this Act, except the provisions of the last foregoing section, shall extend to Northern Ireland. [457]

SCHEDULE

Section 3.

PROVISIONS AS TO CHARGES TO SECURE LOANS IN RESPECT OF PLANT (OTHER THAN LOANS TO LOCAL AUTHORITIES AND COMPANIES)

PART I

CREATION AND EFFECT

1. The loan shall be secured by a floating charge—

(a) in the case of a loan to a body corporate, on the assets for the time being of the body corporate;

(b) in any other case, on the assets for the time being invested or employed in the undertaking in respect of which the loan is made;

and any such charge shall, subject to the provisions of this Act, have the like effect as if it had been created by a duly registered debenture issued by a company.

2. The charge shall be created by an instrument in writing in such form and containing such terms as the appropriate Minister, with the approval of

the Treasury, may determine, which shall have effect notwithstanding anything in the Bills of Sale Acts, 1878 and 1882, and shall not be deemed to be a bill of sale within the meaning of those Acts.

3. Upon the happening of any event specified in that behalf in the instrument creating the charge, the charge shall become a fixed charge upon the property comprised therein as existing at the date of its becoming a fixed charge, and thereupon the appropriate Minister and the borrower shall have such rights and duties as may be specified in that instrument. [458]

For the Bills of Sale Acts, 1878 and 1882, see 2 Statutes 85 and 100.

PART II

REGISTRATION

The Lord Chancellor may make regulations—

- (a) providing for the registration by the Chief Land Registrar of charges created under this Schedule and the removal of such charges from the register ;
- (b) applying to the registration of such charges, with such modifications as appear to be necessary or expedient, any enactment relating to the registration of land charges ;
- (c) providing for the furnishing to any person, on payment of such fee as may be prescribed by the regulations, of a copy of any entry in the register certified to be a true copy by such person as may be so prescribed ;
- (d) providing for the manner in which the registration of a charge under the regulations may be proved in any legal proceedings. [459]

ORDERS, CIRCULARS AND MEMORANDA

REPAIR OF WAR DAMAGE

Circular 1848

September 4, 1939

ESSENTIAL BUILDINGS AND PLANT

SIR,—In Circular 1810 issued on the 18th August Local Authorities were informed of the steps which the Government had under consideration for ensuring the carrying out of the necessary repairs to housing accommodation rendered unfit for habitation by war damage. There are many other classes of buildings in addition to housing accommodation whose maintenance is essential to the welfare of the civil population and I am directed by the Minister of Health to acquaint you with some of the steps which the Government propose to take to ensure that a sufficient number of such buildings are kept in a condition for active use during an emergency. The necessary legislation would be introduced in the event of an emergency.

Some of the buildings in question will be either owned or occupied by Local Authorities, e.g., hospitals, first aid posts or schools; some will be similar buildings in private ownership, while others will be buildings not directly connected with the normal activities of the Local Authority, e.g., bakeries. Generally speaking, the object of the Government is to ensure that the necessary funds for the repairs of such buildings will be available both for Local Authorities and private owners but there will be a distinction in that while in some cases it will

be the duty of the Local Authority to carry out repairs to certain classes of buildings, in the case of the ordinary private owner loans will only be available if he is willing but unable, without financial assistance, to carry out the necessary work. The actual proposals are explained in more detail below.

In Circular 1810 a distinction was made between what were called "first aid" repairs and more permanent repairs to housing accommodation. "First aid" repairs will often be required in the case of essential buildings other than housing accommodation but it is not proposed that there shall be any provision in the case of such buildings corresponding with that contemplated in the case of housing whereby a Local Authority can without notice enter on premises and themselves undertake such repairs. The arrangements for facilitating the carrying out of "first aid" repairs to properties other than housing accommodation are set out later in this Circular.

Loans for repairs to buildings

The proposed arrangements will apply to buildings which, in the opinion of the appropriate Minister, (a) are essential to the welfare of the civil population, (b) have become wholly or partly incapable of use for their normal purpose by reason of war damage, (c) can be repaired at a reasonable cost, and (d) whose repair is essential owing to the lack of buildings available for the purpose for which the building is used.

The appropriate Minister will be, in relation to any building or undertaking, the Minister in charge of the Government Department concerned with the purposes for which the building is used or the undertaking is carried on, and in the appendix to this Circular will be found a list setting out some of the essential types of building together with the appropriate Government Department. The arrangements contemplate that the appropriate Minister or the Housing Authority in whose area the building is situated may lend to the owner of the building the estimated cost of the repairs necessary to fit the building for use again. Where the Housing Authority make the loan, or in certain cases do the repairs themselves, they will receive the necessary money from the appropriate Minister and in the case where properties not belonging to a Local Authority are concerned, the loan or cost of repairs will be registered as a charge on the premises and no repayment of capital or payment of interest will normally be expected or demanded until after the end of the emergency. Cases which appear to be proper subjects for a loan under these arrangements may be brought to the notice of the appropriate Minister by the Local Authority or directly by the undertaking concerned.

Where an essential building which ought to be repaired is owned or occupied by a Local Authority, it is proposed that the appropriate Minister shall, if necessary, be empowered to direct that Local Authority or, in special circumstances, the Housing Authority of the area in which the building is situated, to carry out the necessary works. Where an essential building of the kind normally owned or occupied by a local authority (e.g., a hospital, first aid post or other building used for civil defence purposes, school or other education establishment) is in private ownership, and the owner is willing but unable without financial assistance to repair, it is proposed that the appropriate Minister shall be empowered to direct the Housing Authority either to carry out the works themselves or to lend the owner the necessary money.

Loans for repair or replacement of essential plant.

In many cases it would not be sufficient to provide money for the repair of an essential building; money may also be needed for the repair or replacement of essential plant. Accordingly it is proposed to provide for loans by the appropriate Minister for the repair or reinstatement of the plant in the cases of undertakings which are carried on wholly or partly for purposes which, in the opinion of the appropriate Minister, are essential to the welfare of the civil population and have become wholly or partly incapable of being carried on for those purposes by reason of the occurrence of war damage to plant used for the purposes of the undertaking. The plant must be repairable or replaceable at a reasonable cost, and the repair or replacement must be essential owing to the lack of undertakings carried on for the purpose for which the plant is used. Such loans would be made by the Minister on the representations of the Local Authority or, as would normally happen in the case of industrial undertakings, on direct application from the undertaking concerned and, except when the loan is in respect of plant owned by a Local Authority, the loans would be secured, in the case of a company by a floating charge on the undertaking created by a debenture, and in the case of other undertakings by a floating charge created and having effect in accordance with special provisions to be laid down. In the case of loans in respect of plant, interest would be payable during the emergency and capital would be repayable within a fixed period depending on the kind of plant.

Carrying out of repairs

The Government have no reason to suppose that during an emergency there would be any general shortage of materials required for normal repairs to buildings nor that there would be, save perhaps in exceptional circumstances, any insuperable difficulties in obtaining the necessary building labour. Just as in the case of housing accommodation, however, it will often be necessary to carry out temporary repairs of a "first aid" nature, e.g., covering a hole in a hospital roof. Such temporary repairs may lead to a large demand for particular types of materials such as corrugated iron sheets, asbestos sheets, roofing felt, timber, etc., both by private persons and by Local Authorities. The Government as mentioned in Circular 1810, are taking steps to ensure that a reasonable adequate supply of such materials will be available during an emergency and it is hoped that for the most part persons requiring them will be able to obtain them from the normal suppliers. It is to be anticipated too that many factories and industrial concerns will take steps themselves to accumulate small reserves of such materials.

In order to meet a situation in which particularly heavy and sudden demands have exhausted the supplies of these materials in the hands of the ordinary merchants in a particular area, the Government are themselves purchasing stocks of such materials and are making arrangements for the storage of that material in a number of selected places throughout the country. These reserves will be available to meet the demands of Local Authorities when the ordinary sources of supply temporarily fail although they will not be solely for the use of Local Authorities. If a Local Authority cannot obtain materials required immediately in the ordinary way, they should apply to the representative of H.M. Office of Works at the Office of the Civil Commissioner for the area, who will normally be responsible for giving the necessary authority to enable materials to be obtained from the Government reserves.

Private owners who cannot obtain such materials may similarly be supplied from the Government's stores. Normally they should make application to the Housing Authority for their area who, if satisfied in the circumstances of the moment of the reasonableness of the request, will pass it on to the representative of H.M. Office of Works. Payment will, of course, be required to be made for any materials supplied in this way, whether to a Local Authority or private owner.

In Circular 1810 dealing with repairs to houses the Minister has suggested that the Local Authority should get into touch with the representatives of the building industry in their area and endeavour to arrange that in an emergency small squads of men with the requisite plant and temporary materials could be taken off the work they have in hand and sent out immediately to effect temporary repairs, returning to their other work when finished. In an emergency Local Authorities would be carrying out "first aid" repairs to essential buildings which belong to them and also, by arrangement with the owners, to buildings of the same character, e.g., hospitals in private hands. It is suggested that any arrangements made for the purpose of "first aid" housing repairs should be sufficient to cover repairs to these other essential buildings.

An additional copy of this Circular is enclosed for the use of the Council's Financial Officer and further copies may be obtained through any bookseller or directly from His Majesty's Stationery Office at any of the addresses shown on the back of this Circular.

I am, Sir, etc.

APPENDIX

(LIST OF SOME ESSENTIAL BUILDINGS AND UNDERTAKINGS WITH THE APPROPRIATE GOVERNMENT DEPARTMENT)

Board of Trade	.. ..	<p>Gas Works.</p> <p>Factories producing goods which are essential to the civil population other than factories engaged on work primarily affecting other Government Departments.</p> <p>Warehouses (other than those required for railway, dock or canal services and food warehouses) and other commercial buildings (e.g., offices and shops) in so far as they are essential for civil purposes.</p>
Food (Defence Plans) Department		<p>Flour mills, bakeries and food factories, including factories used for processing of raw materials employed partly for the manufacture of essential foods and partly for other trade uses.</p> <p>Warehouses for storing food including cold stores.</p> <p>Repair garages for road transport vehicles engaged in food distribution.</p>
H.M. Stationery Office	.. ..	<p>Printing Works.</p> <p>Factories producing typewriters, duplicating, photo-printing, sun-printing, addressing, adding, and tabulating machinery.</p>

Board of Education	..	..	Schools and other educational institutions.
Mines Department	..	..	Colliery buildings. Oil refineries and storage depots.
Ministry of Health	..	..	Hospitals. First Aid Posts. Mortuaries and Crematoria. Ambulance Stations. Health Clinics. Water Works. Certain essential omces (e.g., of Local Authorities, Approved Societies, Insurance Committees). Sewage Disposal Works.
Ministry of Transport	..	..	Railway buildings. Dock and harbour warehouses, sheds and other buildings. Canal and Inland Waterway warehouses, sheds and other buildings. Road Transport garages and repair shops for Tramcars, Trolly vehicles and Public Service vehicles ; Repair garages for goods vehicles. Electricity Undertakings.
Home Office (including A.R.P. Department).			Fire Stations. Auxiliary Fire Stations. Police Stations and buildings. Buildings used for Civil Defence purposes.

[460]

CASES

Dangerous and Dilapidated Structure—Order to Repair or Demolish—Works of Repair Unspecified in Order—Whether Order Defective—Public Health Act, 1936 (c. 49), s. 58.

A cinema was damaged by fire, with the result that it became a dangerous or dilapidated building or structure. A complaint was made to the justices, who made an order under the Public Health Act, 1936, s. 58, calling upon the owner to execute works of repair or restoration, or, if he so elected, to take such steps by demolishing the structure and removing any rubbish resulting from the demolition as might be necessary for remedying the cause of complaint. The order was confirmed by general quarter sessions, whose decision was challenged by the applicant on the ground that it was defective and bad in law in that it purported to confirm the justices' order, which did not specify the works of restoration or repair to be executed and or things to be done for the remedy of the cause of complaint :—

Held : an order made under the Public Health Act, 1936, s. 58, since it must give the owner the alternatives of repairing or demolishing the building, need not specify the particular repairs necessary for remedying the cause of complaint.

Decision of the Divisional Court ([1939] 2 All E. R. 334), affirmed.—*R. v. BOLTON RECORDER, EX P. McVITTIE*, [1940] 1 K. B. 290; [1939] 4 All E. R. 236; 161 L. T. 403; 103 J. P. 387; 56 T. L. R. 95; 83 Sol. Jo. 923; Digest Supp., C. A. [461]

Streets—Private Streets—Erection of Walls at Boundary of Estate—Demolition of Walls by Local Authority—Walls Built Over Sewers—Right of Owner to Opportunity of Being Heard before Demolition—Officer Concerned with Demolition—Public Health Act, 1875 (c. 55), s. 26—Public Health Act, 1936 (c. 49), s. 25—Private Street Works Act, 1892 (c. 57), s. 19.

In 1933 plaintiff company purchased from defendant council 20½ acres of land for development as a building estate. On the estate plan were marked two proposed new roads connecting with other roads on the adjoining land of defendants. In 1934 plaintiff company notified the council that they were going to retain the roads as private roads and soon after they enclosed the whole estate in a ring fence including the building of two walls 7 feet high and 9 inches thick across the roads. In 1937 the town clerk of defendant council wrote to plaintiff company stating that the walls constituted a breach of the provisions of the Public Health Act, 1875, s. 26 (dealing with buildings over sewers) and stated that he was authorised to take all necessary steps to secure their removal. In 1938 the council adopted the Private Street Works Act, 1892, and later declared the roads to be highways repairable by the inhabitants at large. On June 8, 1938, in accordance with a resolution of the council, the walls were demolished. It was contended that the walls had been erected in breach of covenants contained in the conveyance of 1933, but it was held that, upon the proper construction of those covenants, that was not so. The council further contended that the erection of the walls was in breach of its bylaw providing that one end, and where practicable both ends, of a new street shall be open from the ground upwards to the full width of the road:—

Held: (i) the erection of the walls was not a breach of the bylaw;

(ii) the principle that a local authority in proceeding to demolish buildings is acting in a *quasi*-judicial capacity and must give the owner an opportunity of being heard on the matter is not confined to cases where the local authority is exercising its powers under a bylaw, but includes the present case. The letter of the town clerk was not sufficient notice as he was not the officer to deal with the actual demolition;

(iii) the Private Street Works Act, 1892, s. 19, does not extend to making the site on which a wall stands a highway repairable by the inhabitants at large, and a local authority cannot, acting under that section, remove the end wall of what is physically a *cul-de-sac*, thereby making it a continuous street with another on the other side of the boundary wall. The walls were rightfully there, and the resolution adopting the Act of 1892 did not make the land on which they stood part of the highway.

Decision of Bennett, J. [1940] 1 Ch. 70; ([1939] 3 All E. R. 839), affirmed.—URBAN HOUSING CO., LTD. v. OXFORD CITY COUNCIL, [1939] 4 All E. R. 211; 56 T. L. R. 68; 83 Sol. Jo. 907; Digest Supp., C. A. [462]

BURIAL AND CREMATION

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ORDERS, CIRCULARS AND MEMORANDA

DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1939, No. 927, as amended

* * * * *

30. Deaths occurring in consequence of war operations.—(1) If, with respect to any dead body in any county borough or county district or in the district of a sanitary authority for the purposes of the Public Health (London) Act, 1936, there has been given by a person authorised by the Secretary of State to act under this Regulation a certificate that it is the body of a person who has died in consequence of war operations, then, notwithstanding anything in any Act, the council of the borough or district or the sanitary authority, as the case may be, shall, unless they are satisfied that adequate arrangements have been otherwise made for the interment of the body, themselves cause the body to be interred in such churchyard, public burial ground or cemetery as they think fit.

Any expenses incurred for the purposes of this paragraph by such a sanitary authority as aforesaid shall be defrayed as if they were expenses incurred under the Public Health (London) Act, 1936.

(2) Section one of the Births and Deaths Registration Act, 1926 (which provides that the body of a deceased person shall not be disposed of without either the certificate of the registrar of deaths or an order of the coroner), shall not apply in relation to any disposal of a dead body effected in pursuance of this Regulation.

(3) No person who, apart from this Regulation, would be required to give any information concerning a death to a coroner shall be obliged so to give that information, if that person has reasonable cause to believe that the death occurred in consequence of war operations; and, except in any particular case in which the Secretary of State otherwise directs, a coroner shall not be obliged or authorised to take any action in relation to any death if he is satisfied that the death occurred in consequence of war operations.

(4) The enactments relating to the registration of deaths shall have effect as if the information thereby required to be given to a registrar concerning the death of any person included, in a case where the informant has reasonable cause to believe that the death occurred in consequence of war operations, a statement that the death so occurred.

(5) The enactments relating to the registration of deaths shall, in

relation to any case in which a certificate that a dead body is the body of a person who has died in consequence of war operations is given by a person authorised by the Secretary of State to act under this Regulation, have effect as if the class of persons required by those enactments to give information concerning the death to a registrar included the person by whom the certificate is given; and any duty imposed by the said enactments, as amended by this Regulation, to give any information concerning the death to a registrar or to attend before the registrar and sign the register shall, in that case, be deemed to have been discharged by the said person if, within the time limited for the giving of that information, he sends the certificate, together with so much of that information as he has in his possession, to the registrar.

(6) Where, upon information of a death given to a registrar in accordance with the enactments relating to the registration of deaths, as amended by this Regulation, the registrar is satisfied that the death occurred in consequence of war operations, he shall, subject to any such general or special directions as may be given by the Registrar General of Births, Deaths and Marriages for determining the manner in which a death so occurring is to be registered, register the death forthwith in the manner directed by the said enactments.

(7) In this Regulation the expression "body" includes part of a body.

(8) This Regulation shall, in its application to Scotland, have effect subject to the following modifications:—

(a) for the reference to the Registrar General of Births, Deaths and Marriages there shall be substituted a reference to the Registrar General of Births, Deaths and Marriages in Scotland;

(b) in paragraph (1) for references to a county borough and to a county district there shall be substituted respectively references to a burgh and to a county, and for the words from "Any expenses" to the end of the paragraph there shall be substituted the words "Any expenses incurred for the purposes of this paragraph by a county or town council shall be defrayed in like manner as expenses under the Public Health (Scotland) Act, 1897";

(c) for paragraph (2) there shall be substituted the following paragraph:—

"(2) In any case in which a certificate that a dead body is the body of a person who has died in consequence of war operations is given by a person authorised by the Secretary of State to act under this Regulation, and in accordance with the enactments relating to the registration of deaths, as amended by this Regulation, there is given to the registrar any information concerning the death, which includes a statement that the death occurred in consequence of war operations, the Registration of Births, Deaths and Marriages (Scotland) Act, 1854, shall have effect in relation to the death as if in section thirty-nine the words from 'and the registrar' to the end of the section, and in section forty-four the words from 'and if any dead body' to the end of the section, were omitted";

(d) at the end of paragraph (6) the following words shall be added:—
"and no inquiry in regard to the death shall, unless the

Lord Advocate otherwise directs, be held in pursuance of the Fatal Accidents [Inquiry] (Scotland) Act, 1895."

(9) This Regulation shall, in its application to Northern Ireland, have effect subject to the following modifications:—

- (a) for the reference to the Registrar General of Births, Deaths and Marriages, there shall be substituted a reference to the Registrar General for Northern Ireland;
- (b) in paragraph (1) for the references to a county borough or county district and to the council of the borough or district there shall be substituted respectively references to the district of a sanitary authority within the meaning of the Public Health (Ireland) Act, 1878, and to the sanitary authority and for the words from "Any expenses" to the end of the paragraph there shall be substituted the words "Any expenses incurred for the purposes of this paragraph by a sanitary authority shall be defrayed as expenses incurred by them in the execution of the Public Health (Ireland) Act, 1878, and in the case of a rural sanitary authority shall be general expenses". [463]

This regulation was originally added by S.R. & O. 1939 No. 978 (now revoked) and was replaced without alteration by S.R. & O. 1939 No. 1681, Article 8.

The Sanitary authority for the purposes of the Public Health (London) Act, 1936 (30 Statutes 446), is, as respects the city, the common council; as respects the Inner Temple and the Middle Temple, the respective overseers thereof, and as respects a borough the council of the borough.

The "enactments relating to the registration of deaths" are the Births and Deaths Registration Acts, 1836 to 1929 (15 Statutes 688 *et seq.*).

The word "Inquiry" in square brackets in paragraph 8 (d) was inserted by S.R. & O. 1939 No. 1786.

31. Appointment of additional registrars and deputy registrars of births and deaths.—(1) If any superintendent registrar dies, resigns or otherwise ceases to hold his office, and there is no interim superintendent registrar, the clerk of the responsible council as defined by subsection (5) of section twenty-two of the Local Government Act, 1929, shall, if required by the Registrar General of Births, Deaths and Marriages so to do, appoint an interim superintendent registrar.

(2) Every superintendent registrar or registrar shall, if required by the Registrar General of Births, Deaths and Marriages so to do, appoint an additional deputy or additional deputies approved by the Registrar General; and any person appointed under this paragraph shall be deemed to be a deputy appointed under section twenty-four of the Births and Deaths Registration Act, 1874.

(3) Any reference in this Regulation to a superintendent registrar, an interim superintendent registrar or a registrar, shall be construed as a reference to a superintendent registrar, an interim superintendent registrar or a registrar, as the case may be, for the purposes of the enactments relating to the registration of births and deaths.

(4) This Regulation shall not extend to Scotland or to Northern Ireland. [464]

This regulation was originally added by S.R. & O. 1939 No. 978 (now revoked) and was replaced without alteration by S.R. & O. 1939 No. 1681, Article 9.

For s. 24 of the Births and Deaths Registration Act, 1874, see 15 Statutes 744. See notes to the previous Regulation.

* * * * *

CIVILIAN DEATHS DUE TO WAR OPERATIONS

*Circular 1779**February 28, 1939*

SIR, I am directed by the Minister of Health to inform you that His Majesty's Government have had under consideration the special arrangements to be made, in the event of war, in regard to persons killed in consequence of war operations in this country. It is proposed that certain duties in this respect should be placed upon Local Authorities (i.e. the councils of county and non-county boroughs, urban and rural districts, and, in London, the metropolitan boroughs), and the object of this circular is to acquaint Local Authorities with the nature of the duties which they would have to discharge and to enable them to consider the arrangements necessary for that purpose.

2. It may be expected that, in the majority of areas, the bodies of any persons who might be killed as a result of war operations would be taken directly to their own homes—or, if taken to a mortuary, removed therefrom—by relatives or friends, who would make arrangements for burial. But, where these responsibilities were not undertaken by relatives or friends, they would devolve upon Local Authorities, and the necessary arrangements, so far as they can be reasonably foreseen, should now be provisionally settled.

3. In cases where normal arrangements might not be practicable, it is contemplated that bodies would be taken from buildings or streets by rescue or first aid parties and deposited temporarily in the nearest suitable place pending removal to mortuaries. It would be for the Local Authority to arrange for the transport and personnel necessary for conveying them to the mortuary, and the requirements in this respect, which would naturally vary in different areas, should now be considered in the light of the character of the district concerned. Personnel could consist of persons already in the employment of, or recruited for the purpose, by the Authority. It would be necessary to observe existing instructions as to the precautions to be taken if gas had been used in the attack.

As regards transport, provisional arrangements should be made in advance to ensure that suitable covered vehicles—whether owned by the Local Authority or to be specially engaged, and if necessary requisitioned, for the purpose—are earmarked so that they might be immediately available if and when required.

4. Adequate mortuary accommodation would also be necessary. A provisional list of suitable buildings likely to be available for that purpose should be prepared. Selected buildings should be such that separate accommodation could be provided for any bodies which had been exposed to gas-contamination and should also possess facilities for cleansing (i.e. running water and arrangements for heating water). They should also comprise, if possible, some accommodation for the reception of relatives, and for temporary storage of personal effects.

In preparing any such list, Local Authorities may proceed on the assumption that powers will be available which would enable temporary possession of suitable premises to be secured, should the need arise, for this purpose through a local representative of the Ministry of Health.

Each mortuary would need to be placed in charge of a superintendent, and one or more competent persons should be provisionally selected for this work, which would be a task of substantial responsi-

bility, and should make themselves acquainted with the proposed procedure.

5. In some places a relatively large number of casualties might be admitted to hospitals, and a correspondingly large number of war deaths might occur there. To meet such a contingency, it might be desirable, with the assent of the hospital authorities, to arrange for the appointment by the Local Authority of an officer to act as mortuary superintendent, who would undertake at the hospital all the duties assigned to superintendents of Local Authorities' mortuaries. Such an arrangement would depend upon the existence or provision on the hospital premises of a suitable mortuary and adequate accommodation for the handling of records and personal effects.

As an alternative, each hospital might with advantage be associated for the purpose with one of the mortuaries provided by the Local Authority, and arrangements made for an officer from that mortuary to visit the hospital (either upon notice of a death or in accordance with some general arrangement) to record all necessary particulars.

6. The Local Authority would be charged with further duties in relation to identification, the keeping of certain essential records and notifications to Registrars.

The Memorandum enclosed with this Circular indicates, for the information of responsible officers, the procedure to be followed in this matter and the form in which the required particulars should be furnished. Supplies of the form will be available for the use of Local Authorities and applications for them should be made, *if and when need arises*, to the Ministry's local representative. In this connection Local Authorities should proceed on the assumption that provision will be made to dispense with the necessity of reporting to Coroners deaths due to war operations and to relieve Coroners of any obligation or authority to hold inquests or conduct any enquiry whatsoever in regard to such deaths. Accordingly no report will be made to a Coroner concerning any body which is brought to a mortuary unless the mortuary superintendent has reason to believe that the death was violent or unnatural, but was not due to war operations. In any case where the mortuary superintendent has reason to suspect that a death was violent or unnatural and not due to war operations, it will be his duty to report it to the Coroner.

7. The question whether and to what extent the ordinary services provided by undertakers might prove inadequate and require to be supplemented or superseded by emergency arrangements must of course depend on the nature and severity of enemy action, and any arrangements now made will necessarily be on a provisional basis and related, as in other matters, to the assumed degree of risk in the area concerned. It is suggested, however, that consultation with any local organisation representing undertakers in the neighbourhood may be found useful.

It is understood that, in some areas, such consultation has already taken place and that provisional arrangements are as a result proposed for utilising the trained staff of local undertakers.

8. It is proposed that Local Authorities should be empowered to make use of any public burial ground, churchyard or cemetery not under their control.

Where in the opinion of the Authority there is a possibility of additional accommodation being necessary, they should consider what suitable sites might be available. They may proceed on the assumption

that, should the need arise, compulsory powers of acquisition in default of agreement would be available, as in the case of premises required for mortuary purposes.

9. It will be appreciated, from what has been said above, that there are certain matters which should receive immediate attention, namely :—

(a) a review of existing mortuary accommodation (in particular in its relation to hospitals), and of buildings which might, in case of need, be used to supplement it ;

(b) a similar review of existing and potential burial accommodation ;

(c) a similar review of transport facilities available and likely to be needed ;

(d) a provisional selection of staff with a view to their becoming familiar with the duties described in this circular which they would be expected to carry out.

If as a result of this review it is anticipated that additional buildings, land or transport would be required, particulars of the estimated requirements under each head and of the means by which it is thought they could best be met should be forwarded to the Ministry's General Inspector for the area.

10. It is not contemplated that, in general, action involving any material expenditure need be taken in advance of an emergency. To the extent, however, that such expenditure may be essential and is approved it will rank for grant under the Air-Raid Precautions Act, 1937.

I am, Sir, etc.

[465]

CIVILIAN DEATHS DUE TO WAR OPERATIONS

Memorandum 222 (Enclosure to Circular 1779)

IDENTIFICATION, RECORDS AND REGISTRATION

Bodies not received into a mortuary.

1. In cases where relatives or friends took charge of a body and assumed responsibility for its disposal, they would be under the normal statutory duty to register the death and no responsibility would fall on the Local Authority.

Bodies received into a mortuary.

2. As regards bodies received into a mortuary, the following arrangements would apply, unless in accordance with paragraph 6 of the Circular, the Mortuary Superintendent is required to report the death to the Coroner :—

(a) On receipt of a body at a mortuary, part A of the form should at once be filled in, and should wherever possible be signed by the officer or person who brought the body to the mortuary.

(b) The next step would be to establish identification, if possible. If identity were established, either part B or part C of the form would be filled in—part B if the body were claimed and removed for burial by the relatives (see paragraph 5 of this Memorandum), and part C in other cases ; part C should be signed by the Mortuary Superintendent.

(c) Where identity could not readily be established, part D of the form would be filled in and signed by the Mortuary Superintendent.

- (d) A brief inventory of clothing and effects found on or with the body should be entered in the space provided.
- (e) When completed as far as possible by the Mortuary Superintendent, all forms should be sent by him to the Clerk of the Council, who should arrange to transcribe or extract particulars from them to form a permanent record of all deaths thus reported.
- (f) If any case where identity had not been established at the mortuary it would be the duty of the Clerk to take such steps as might be possible to secure identification by an examination of the personal effects or otherwise and to enter in part C of the form any appropriate particulars he could obtain.

Burials by Local Authority.

3. In the case of bodies buried by the Local Authority, the forms should be dealt with as follows :—

- (a) if the body had been identified, the form should be certified by the Clerk, in the manner for which provision is made, and sent to the Registrar of Deaths for the appropriate sub-district, who would register the death on the information so given. Relatives, unless already known to be aware of the death, should be notified ;
- (b) if the body had not been identified at the time of burial, the form should be retained for the time being by the Clerk ; but if identity were subsequently established part C of the form should be completed and certified and sent to the Registrar.

4. It is proposed that, as regards bodies buried by the Local Authority, an exception should be made from the provisions of the law prohibiting disposal without a Registrar's Certificate for Disposal. Registrars would not therefore issue Certificates for Disposal in the case of deaths registered on the information of the Clerk. Where, however, the death was registered by relatives the normal requirements as to the production of a Certificate of Disposal before burial would continue to apply.

Claiming and Removal of bodies by relatives or friends.

5. Where application is made by relatives or friends for permission to remove a body from the mortuary for disposal at their own expense, the procedure should be as follows :—

- (a) if the relevant form had not previously been sent by the Mortuary Superintendent to the Clerk, the relatives or friends may remove the body after completion of part B of the form. It would be the duty of the relatives or friends in such cases to register the death, and they should be so informed at the time of removal. The Clerk should transmit the form to the Registrar of Deaths for the appropriate sub-district to assist him in securing registration of death by the relatives or friends, but the form should *not* be certified by or on behalf of the Clerk.
- (b) If the relevant form had previously been sent by the Mortuary Superintendent to the Clerk, the Clerk should give the applicant a written authorisation to remove and dispose of the body and a certificate that death was due to war operations. In such a case the death should *not* be registered by the relatives or friends, and they should be so informed at the time of removal. For the purpose of burial and registration

the body, in such a case, would be deemed to be buried by the Local Authority.

References to Coroners.

6. In any case where, in accordance with paragraph 6 of the Circular, the Mortuary Superintendent is required to report the death to the Coroner, the procedure should be as follows :—

- (a) The form should be clearly marked "Referred to Coroner" and parts A and C should be filled in as far as practicable, but the entry relating to "*Cause of Death*" should be omitted.
- (b) The form should then be sent to the Coroner.
- (c) If the Coroner were satisfied either with or without holding an inquest that the death was in fact due to war operations, he would endorse the form to that effect and return it to the Mortuary Superintendent. The Mortuary Superintendent should then insert any additional ascertained particulars in the form and send it to the Clerk. The procedure applicable to cases not reported to the Coroner should then be followed and the body should be buried by the Local Authority unless it is claimed by relatives or friends, in which case the procedure set out in paragraph 5 (b) above should apply.
- (d) If the Coroner were not so satisfied, the provisions of the ordinary law would apply.
- (e) The Mortuary Superintendent should not allow the body to be removed from the mortuary without the authority of the Coroner. Where the form had been endorsed by the Coroner to the effect that the death was due to war operations, removal of the body for disposal by relatives or friends should only be allowed on production of the written authorisation of the Clerk.

Records of places of burial.

7. A record of the precise place of burial of each body buried by the Local Authority (including bodies claimed and buried by relatives or friends which are deemed to be buried by the Local Authority in accordance with the procedure referred to in paragraph 5 (b) above) would be necessary, and instructions would need to be given for this to be noted in each case, and communicated to the Clerk of the Council who would keep it with the other particulars in the permanent record to be kept by him.

DEATH DUE TO WAR OPERATIONS

Name and Address of Mortuary.....

A.—TO BE ENTERED IMMEDIATELY UPON RECEPTION OF THE BODY AT MORTUARY

Date..... Hour..... of Reception

Place $\left\{ \begin{array}{l} \text{of Death*} \\ \text{of Finding the Body*} \end{array} \right.$ <small>* Cross out whichever is inapplicable</small>	..... Full postal particulars of house or street.
2. Date and hour $\left\{ \begin{array}{l} \text{of Death*} \\ \text{of Finding the Body*} \end{array} \right.$ <small>* Cross out whichever is inapplicable</small>	3. Sex. 4. Probable Age.

5. Cause of Death [see Note 1].

Signature..... Official Description.....

Date.....

B.—BODY CLAIMED AND REMOVED FOR BURIAL BY RELATIVES OR FRIENDS

1. Signature of Relative or Friend
2. Address
3. Deceased identified by Relative or Friend as
4. Serial Identification Number (if any).....
[See Note 2.]

C.—BODY NOT CLAIMED FOR BURIAL

(Enter following identification particulars so far as ascertainable.)

1. Name, in Block Letters (Surname first) ..	
2. Residence (Full Postal Address) ..	
3. Occupation or Description ..	
4. Whether Single, Married or Widowed.....	5. Age..... 6. Sex.....
7. Cause of Death (based upon A.5 above and any further inspection and examination) [see Note 3].	
8. If Identified on Inspection of the Body by a Relative or Friend.	Signature of Person Identifying..... Relationship to Deceased.....
9. If Identified by personal effects only (including Identity Card, if any).	Nature of Evidence..... Serial Identification Number (if any)..... [See Note 2.]
Signature.....	Official Description..... Date.....

- NOTES.—1. The entry should state the apparent cause of death, e.g., whether due to bomb-splinter, falling masonry, fire, etc.
2. If National Registration is in force and an Identity Card is found on the body, the serial Identification Number must be entered, as directed, either in Part B or Part C. The Identity Card itself should be marked "Dead: War Operations" and forwarded with this form to the Clerk of the Council, for transmission to the Registrar-General.
3. This entry should confirm (or modify as required as a result of any further examination), the entry made in A 5. It is *not* intended that any attempt should be made to give medical details (e.g., the precise location of wounds, or vital organs affected), but the particulars furnished should relate to the nature of the violence which caused the wounds rather than to the medical nature of the wounds themselves.

D.—TO BE ENTERED PENDING IDENTIFICATION [See Note 4]

Height.....ft.....ins.	Build.....
Dress	
Hair.....	Moustache..... Beard.....
Complexion.....	Eyes
Shape of Nose.....	Shape of Face.....
Physical Marks or Peculiarities	
Names or Identification Marks upon Effects.....	
Signature.....	Official Description..... Date.....

INVENTORY OF CLOTHING AND EFFECTS

(For entry in accordance with such instructions as may be given by the Local Authority.)

Signature.....	Official Description..... Date.....
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To the

REGISTRAR OF BIRTHS AND DEATHS for the.....Sub-district.
(NOTE.—The space below should *not* be signed if the form is sent to the Registrar in connection with Section B only.)

The Particulars overleaf with respect to a death, which I hereby certify to be due to war operations, are sent to you for Registration.

Signature.....

Clerk to the

.....Council.

NOTE 4.—Unless the body has been identified, in which case either Part B or Part C of the form must be filled up, Part D should be filled up before the body is removed from the Mortuary.

[466]

CIVILIAN DEATHS DUE TO WAR OPERATIONS

Circular 1846

August 16, 1939

SIR,—I am directed by the Minister of Health to refer to Circular 1779 and the Memorandum 222 enclosed herewith, setting out the duties which will fall on Local Authorities in regard to the collection and disposal of the bodies of persons killed in consequence of war operations, and to state that it will be necessary in this connection for Local Authorities to arrange for the carrying out of the additional functions referred to below.

2. It is to be anticipated that the Clerk of the Council and the police will receive urgent inquiries about missing persons from anxious relatives, and it is desirable that any information useful for dealing with such inquiries should be readily available. The Mortuary Superintendent should, therefore, keep a daily list, in triplicate, of the names and, where known, the addresses of the persons whose bodies are brought to the mortuary and identified, and arrangements should be made for him to send each day one copy of this list to the nearest police station and another to the Clerk of the Council. The third copy should be retained by the Mortuary Superintendent to form a permanent record.

3. It is necessary to co-ordinate the procedure set out in the previous circular and memorandum and in this circular with that of the emergency food organisation. If a system of rationing is in force at the time, a ration book will often be found on the body of a deceased person brought to the mortuary. Such books should be forwarded by the Mortuary Superintendent to the Clerk with the list of names and addresses referred to in paragraph 2 above, and the Clerk should send the books to the Food Executive Officer, where the same officer does not serve in the two capacities. The list of names and addresses should be available for examination by the Food Executive Officer in order that he may be able to trace and recover any ration books not found on the bodies of identified persons.

4. The Mortuary Superintendent should in all cases forward a National Registration Identity Card, if one is found on a body, to the Clerk of the Council with the form C.W.D. for transmission by him to the Registrar.

5. It will be necessary that periodical returns should be made by the Clerk to the Council to the Registrar General of the number of unidentified deceased persons whose bodies are dealt with according to the procedure set forth in Circular 1779 and the Memorandum 222. More precise arrangements in this respect will be made in the light of the circumstances prevailing when the procedure is in operation.

I am, Sir, etc.

[467]

DEATHS DUE TO WAR OPERATIONS

Circular 1867

September 8, 1939

SIR,—I am directed by the Minister of Health to refer to Circular Letter No. 1779 of the 28th February last, and to inform you that in pursuance of Regulation 30 of the Defence Regulations the Secretary of State for Home Affairs has authorised the Clerk of any local authority to issue a certificate of Death due to War Operations as regards the death of any person, whether a member of His Majesty's Forces or otherwise, in respect of whom a report on the prescribed form has been sent by the Superintendent of a mortuary that the death has been due to War Operations.

I am, Sir, etc.

[468]

CIVILIAN DEATHS DUE TO WAR OPERATIONS

Circular 1914

November 24, 1939

SIR,—I am directed by the Minister of Health to refer to paragraph 3 (a) of Memorandum 222 issued with Circular 1779, in which it is stated that, in the case of bodies buried by a Local Authority, the relatives of the deceased person, unless already known to be aware of the death, should be notified. This procedure now requires modification in one respect.

It will not be necessary for the clerk to notify the relatives of the death of a person who dies in hospital or is found, on admission to hospital, to be dead, although the body may be buried by the Local Authority. The relatives will be notified of these deaths by the Hospital Authorities.

It is considered desirable that relatives in their bereavement should receive an appropriate message from the Government, and I am to ask that a paragraph in the following terms should be added to the letter sent by the Local Authority notifying the death :—

“The Minister of Health asks me to express the deep sympathy of His Majesty's Government with you in your loss.”

I am, Sir, etc.

[469]

CAMPS

See OPEN SPACES.

CANALS

PAGE

A.-G. (Rochdale Corpn.) v. Rochdale Canal Co., [1939] 3 All E. R. 57, C. A. 234

CASES

Canals—Supply of Water to Railway Company—Statute Restricting Supply to Mills and Works on Adjoining Lands—Rochdale Canal Act, 1899 (c. cclvii), s. 37.

A canal company supplied a railway company with water at two points, within the area for which the relators were the water authority, for the purpose of raising steam for the locomotive engines of the railway company. Under the Rochdale Canal Act, 1899, s. 37, the supply of water by the canal company was permitted for the purpose of raising steam in mills or works within 100 yards of the canal. It was contended that it did not matter where the raising of steam took place, provided some part of the works was within that limit, and also that a railway was a works. Alternatively, it was contended that the works consisted of that portion of the railway system which actually received the water:—

Held: (i) the phrase “mills and works” meant mills and works where the operation of raising and condensing steam takes place;

(ii) the limit of 100 yards referred to the situation of the works, and not to the point of supply;

(iii) the phrase “mills or works” referred to physical things to which a local situation can be ascribed, that situation being capable of definition by reference to a measurement in yards.

A.-G. (ROCHDALE CORPN.) v. ROCHDALE CANAL CO., [1939] 3 All E. R. 57; 55 T. L. R. 754; 83 Sol. Jo. 437; Digest Supp., C. A. [470]

CANCER

See DISEASES.

CASUALS

See PUBLIC ASSISTANCE.

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STATUTES

THE NATIONAL REGISTRATION ACT, 1939

(2 & 3 GEO. 6, c. 91)

PRELIMINARY NOTE

This Act came into force on 5th September, 1939, and is limited in duration to the period of the present emergency. It authorises the preparation of a register of all persons in the United Kingdom at the appointed time and of all persons entering or born in the United Kingdom after that time. The appointed time was midnight ending 29th September, 1939.

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An Act to make provision for the establishment of a National Register, for the issue of identity cards, and for purposes connected with the matters aforesaid. [471] [5th September 1939.]

1. Establishment of National Register.—(1) Subject to the provisions of this Act, there shall be a register of all persons in the United Kingdom at the appointed time, and of all persons entering or born in the United Kingdom after that time, and there shall be recorded in the register in relation to those persons such particulars with respect to the matters specified in the Schedule to this Act as may be prescribed by regulations made by the Ministers.

(2) The said register shall be called the National Register and is hereafter in this Act referred to as “the Register.” [472]

The following expressions are defined by section 11, *post* :—“appointed time”; “prescribed”; “the Ministers”.

The appointed time was “the hour of midnight ending the twenty-ninth day of September, 1939” (National Registration (Appointed Time) Order, 1939, dated 11th September, S.R. & O. 1939 No. 1247).

2. Duties of Registrar-General.—(1) It shall be the duty of the Registrar-General to make such arrangements and do such things as are necessary for the initiation and maintenance of the Register in accordance with the provisions of this Act and of any regulations made thereunder, and for that purpose to make arrangements for the preparation and issue of the necessary forms and instructions and for the collection or reception of the forms when filled in. [473]

(2) The Registrar-General in the exercise of his powers under this Act or under regulations made thereunder shall be subject to the control of, and comply with any directions given by, the appropriate Minister. [474]

The following expressions in this section, are defined by section 11, *post*:—"Registrar-General"; "appropriate Minister".

3. Initiation of Register.—For the purpose of initiating the Register, the Ministers may make regulations providing for such matters as may be necessary or expedient, and in particular, but without prejudice to the generality of the foregoing words of this section—

- (a) providing, in connection with the collection, reception and recording of the information required in relation to persons in the United Kingdom at the appointed time, for the division of the country into districts and, in the case of such of those districts as may be prescribed, for the grouping of districts in areas, and for the employment of persons to act in the several districts and areas ;
- (b) requiring persons employed under the regulations to make a statutory declaration with respect to the performance of their duties, and authorising any superintendent-registrar or registrar to take such a declaration ;
- (c) requiring persons who have undertaken to perform duties in connection with the taking of a census under the Census Act, 1920, to perform in lieu thereof similar duties, subject as nearly as may be to the terms and conditions of their undertaking, in connection with the initiation of the Register ;
- (d) prescribing the persons or classes of persons by whom returns are to be made (whether as respects themselves or as respects other persons), the persons to whom returns are to be made and the form of the returns, and providing for the collection or delivery of the returns ;
- (e) requiring the information necessary for the making of a return with respect to any person to be given either by that person, or by such other person as may be prescribed, to the person by whom the return is to be made. [475]

The following expressions in this section are defined by section 11, *post*:—"the Ministers"; "the appointed time"; "prescribed".

Regulations have been made under this section, entitled the National Registration Regulations, 1939, dated 21st September (S.R. & O. 1939 No. 1248). See particularly Regulations 8 to 14 thereof.

Persons to be registered.—Section 1 of the Act provides that all persons in the United Kingdom on the appointed time and those born or thereafter coming into the United Kingdom after that date are to be registered. (See section 4.) For exceptions see section 7 and Regulation 8 (proviso).

For the Census Act, 1920, see 3 Statutes 555.

The penalty for failure to comply with Regulations or requirements under the Act is prescribed by section 8 (3) and (4) (i). For false statements a much heavier penalty is laid down by section 8 (1) and (4) (ii).

4. Maintenance of Register.—For the purpose of maintaining the Register, the Ministers may make regulations providing for such matters as may be necessary or expedient, and in particular, but without prejudice to the generality of the foregoing words of this section, providing—

- (a) for the making of returns, in respect of any registered person, containing particulars of any change of circumstances affecting the accuracy of such of the particulars recorded in the Register in relation to that person as may be prescribed ;
- (b) for the making of returns, in respect of persons entering or born in the United Kingdom after the appointed time, containing such particulars with respect to such of the matters specified in the Schedule to this Act as may be prescribed ;
- (c) for the collection of such particulars with respect to registered persons dying or leaving the United Kingdom as may be prescribed ;
- (d) for the recording of particulars obtained under this Act in such manner, at such places and by such persons as may be prescribed. [476]

The following expressions in this section are defined by section 11, *post* :—" the Ministers " ; " registered person " ; " prescribed " ; " appointed time " .

Regulations have been made under this section, entitled the National Registration Regulations, 1939, dated 21st September (S.R. & O. 1939 No. 1248). See particularly Regulations 19 to 23 thereof.

5. Vouching of information.—The appropriate Minister, or any person authorised by him for the purpose of this section, may require a person who has given any information in pursuance of this Act or regulations made thereunder to furnish such documentary or other evidence of the truth of that information as it is within the power of that person to furnish. [477]

The " appropriate Minister " is defined by section 11, *post*.

6. Identity cards.—(1) It shall be the duty of the Registrar-General to cause a card containing the prescribed particulars (hereafter in this Act referred to as an " identity card ") to be issued with respect to every registered person in accordance with regulations made under this section. [478]

(2) The Ministers shall by regulations—

- (a) prescribe the form of identity cards and require to be entered therein such particulars with respect to such of the matters specified in the Schedule to this Act as may be prescribed ;
- (b) provide for the issue of an identity card, either directly or otherwise, to the person to whom it relates, or to such other person as is deemed under the regulations to be in charge of the person to whom it relates ;
- (c) provide for the transfer of an identity card from time to time to the person who for the time being is responsible under the regulations for the custody of the card ;
- (d) provide for the issue, subject to the payment of such fee and compliance with such conditions as may be prescribed

by the regulations, of fresh identity cards in place of cards which have been lost, destroyed or defaced ;

- (e) provide for the surrender of an identity card relating to a person who dies and, in such cases as may be prescribed, for the surrender of an identity card relating to a person who leaves the United Kingdom ;

and the regulations may provide for the payment of rewards to persons finding and delivering to the prescribed person an identity card which has been lost. [479]

(3) All fees received under the regulations shall be paid into the Exchequer. [480]

(4) A constable in uniform, or any person authorised for the purpose under the said regulations, may require a person who under the regulations is for the time being responsible for the custody of an identity card, to produce the card to him or, if the person so required fails to produce it when the requirement is made, to produce it within such time, to such person and at such place as may be prescribed.

[481]

The following expressions in this section are defined by section 11, *post* :—" Registrar-General " ; " prescribed " ; " registered person " ; " the Ministers " and " identity card " by subsection (1) of this section.

Regulations have been made under this section, entitled the National Registration Regulations, 1939, dated 21st September (S.R. & O. 1939 No. 1248). See in particular Regulations 28 to 37 thereof.

Non-compliance with a demand for the production of an identity card by the person for the time being responsible for the custody of an identity card is an offence within the meaning of section 8 (3), *post*, the penalty on summary conviction being imprisonment for a term not exceeding one month and/or a fine not exceeding five pounds. Note that the identity card need not necessarily be produced at once, but must be produced within two clear days to the person prescribed by Regulation 37 (2).

7. Application of Act to armed forces and mercantile marine.—The Ministers may by regulations provide—

- (a) that the foregoing provisions of this Act and any regulation made thereunder shall not apply, or shall apply subject to such exceptions and modifications as may be prescribed, to the following persons or any class or classes thereof, namely—
 - (i) officers or men of any of His Majesty's naval, military and air forces ; and
 - (ii) persons employed or engaged or ordinarily employed or engaged on ships ; and
- (b) for the registration or removal from the Register of any person on his ceasing to be or becoming a person who by virtue of the regulations made under this section is not required to be registered under this Act ; and
- (c) for the surrender of an identity card relating to any person on his becoming a person who is not required to be registered as aforesaid. [482]

The following expressions in this section are defined by section 11, *post* :—" the Ministers " , " prescribed " ; and " identity " by section 6 (1), *ante*.

No return had to be made at the appointed time in respect of a member of the Royal Forces, unless he was then on leave (Regulation 8 (proviso)). When he returns to duty the fact is notified under Regulation 23 (a), and he is taken off the register (Regulation 27). A person enlisting after the appointed time is similarly treated (*ibid.*). It appears from Regulation 20 (1) that members

of the Royal Forces going on leave after the appointed time do not therefore have to be registered unless they were at that time outside the United Kingdom. Persons discharged from the Royal Forces after the appointed time have then to be registered (Regulation 20 (1) (c)).

It is submitted that women members of the Auxiliary Forces are for the purposes of this Act "officers and men" (see *In the Estate of Stanley*, [1916] P. 192; 39 Digest 336, 224). In that case the woman concerned was one who was in peace-time a member of the Territorial Force Nursing Service, was on the outbreak of war mobilised for duty and was seconded for service in the Queen Alexandra Imperial Military Nursing Service. By the terms of her engagement with the War Office she had agreed to serve for twelve calendar months from the date of entering on duty or until her services should be no longer required whichever should first happen. She died from illness contracted whilst on active service having made a will whilst under orders to embark for service as a nurse on one of His Majesty's ships. It was held for the purposes of the Wills Act, 1837, section 11 (20 Statutes 442) she was at the time of making her will "a soldier being in actual military service".

No return had to be made at the appointed time in respect of persons qualified to be included in the Mercantile Marine Register (Regulation 8 (proviso)). When a person becomes so qualified after the appointed date the fact is notified under Regulation 23 (a), and he is taken off the National Register (Regulation 27). When a person registered in the Mercantile Marine Register ceases to be qualified for inclusion therein, he has then to be registered in the National Register (Regulation 20 (1) (a)).

8. Offences and penalties.—(1) If any person—

- (a) in giving any information for the purposes of this Act, knowingly or recklessly makes any statement which is false in a material particular; or
- (b) with intent to deceive—
 - (i) makes a false representation that he or any other person is the person to whom an identity card relates; or
 - (ii) allows any other person to have possession of an identity card for the custody of which he is responsible under regulations made under this Act; or
 - (iii) forges an identity card, or makes or has in his possession any document so closely resembling an identity card as to be calculated to deceive;

he shall be guilty of an offence under this Act. [483]

(2) If any person—

- (a) being a person employed for the purposes of this Act, publishes or communicates to any person, otherwise than in the ordinary course of such employment, any information acquired by him in the course of the employment; or
- (b) having possession of any information which to his knowledge has been disclosed in contravention of this Act, publishes or communicates that information to any other person;

he shall be guilty of an offence under this Act:

Provided that nothing in this subsection shall apply to any publication or communication of information made—

- (i) for the purpose of any criminal proceedings; or
- (ii) to any person authorised by the appropriate Minister or the Registrar-General. [484]

(3) If any person fails to comply with any requirement duly made under this Act or contravenes or fails to comply with any regulations made under this Act, he shall be guilty of an offence under this Act. [485]

(4) Every person who is guilty of an offence under this Act shall be liable—

- (i) in the case of an offence under subsection (3) of this section,

on summary conviction, to imprisonment for a term not exceeding one month or to a fine not exceeding five pounds, or to both such imprisonment and such fine ; and

(ii) in the case of any other offence—

(a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine ; or

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine. [486]

The following expressions in this section are defined :—" identity card " by section 6 (1) ; and " appropriate Minister " and " Registrar-General " by section 11.

The time limit for summary prosecution is six months from the date of the offence (Summary Jurisdiction Act, 1848, section 11 ; 11 Statutes 278). A failure is an offence continuing until the default be remedied and may be prosecuted at any time while the failure continues or within six months of its being remedied.

9. Expenses.—Any expenses incurred for the purposes of this Act by the appropriate Minister or the Registrar-General shall be defrayed out of moneys provided by Parliament. [487]

" Appropriate Minister " and " Registrar-General " are defined by section 11, *post*.

10. Provision as to regulations.—Regulations made by the Ministers under any provision of this Act may contain different provisions as respects different parts of the United Kingdom. [488]

" The Ministers " is defined by section 11, *post*.

11. Interpretation.—In this Act the following expressions have the meanings hereby respectively assigned to them,—

" appointed time " means such time as the Ministers may by order appoint ;

" appropriate Minister " means—

(a) in the application of this Act to England, the Minister of Health ;

(b) in the application of this Act to Scotland, a Secretary of State ;

(c) in the application of this Act to Northern Ireland, a Secretary of State ;

" the Ministers " means two Secretaries of State and the Minister of Health acting jointly ;

" prescribed," in relation to any regulations, means prescribed by those regulations ;

" registered person " means a person for the time being registered in the Register ;

" Registrar-General " means—

(i) in the application of this Act to England and Northern Ireland, the Registrar-General of Births, Deaths and Marriages in England ;

(ii) in the application of this Act to Scotland, the Registrar-General of Births, Deaths and Marriages in Scotland.

[489]

12. Short title, extent and duration.—(1) This Act may be cited as the National Registration Act, 1939.

(2) It is hereby declared that this Act extends to Northern Ireland.

(3) His Majesty may by Order in Council direct that this Act shall extend to the Isle of Man as if it were part of the United Kingdom, subject to any exceptions, modifications and adaptations specified in the Order.

(4) This Act shall continue in force until such date as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of this Act came to an end, and shall then expire except as respects things previously done or omitted to be done. [490]

The Act has been extended to the Isle of Man, with exceptions and adaptations, by the National Registration (Isle of Man Application) Order, 1939, dated 8th September (S.R. & O. 1939 No. 1193).

SCHEDULE

Sections 1, 4, 6.

MATTERS WITH RESPECT TO WHICH PARTICULARS ARE TO BE ENTERED IN REGISTER

1. Names.
2. Sex.
3. Age.
4. Occupation, profession, trade or employment.
5. Residence.
6. Condition as to marriage
7. Membership of Naval, Military or Air Force Reserves or Auxiliary Forces or of Civil Defence Services or Reserves. [491]

ORDERS, CIRCULARS AND MEMORANDA

NATIONAL REGISTRATION (APPOINTED TIME) ORDER, 1939

S. R. & O., 1939, No. 1247

September 11, 1939

(102578)

Whereas under the National Registration Act, 1939 (in this order referred to as "the Act") power is conferred on two Secretaries of State and the Minister of Health, acting jointly, to appoint by order the appointed time for the purposes of the Act :

Now therefore we, in exercise of the said power, and of all other powers enabling us in that behalf, acting jointly, hereby make the following order.

1. This order may be cited as the National Registration (Appointed Time) Order, 1939.

2. The appointed time for the purposes of the Act shall be the hour of midnight, ending the twenty-ninth day of September, 1939.

* * * * *

[492]

NATIONAL REGISTRATION REGULATIONS, 1939

S. R. & O., 1939, No. 1248

(102545)

September 21, 1939

In exercise of the powers conferred on us by the National Registration Act, 1939, and of all other powers enabling us in that behalf, acting jointly, we hereby make the following regulations :—

PART I

INTERPRETATION

1.—(1) These regulations may be cited as the National Registration Regulations, 1939.

(2) In these regulations, unless the context otherwise requires—

“ the Act ” means the National Registration Act, 1939 ;

“ the Act and regulations ” means the Act, these regulations and any other regulations made under the Act ;

“ registration return ” means a return made under regulation 8, regulation 20 or regulation 21 ;

“ prescribed person ” means a person required to make a registration return under regulation 8 or regulation 20 ;

“ enumeration district ” and “ enumeration area ” mean respectively a district and an area constituted under regulation 3 ;

“ registrar ” means a registrar of births and deaths ;

“ the appointed time ” means the time appointed by the Minister by order under the Act ;

“ the appointed day ” means the day which includes or is ended by the appointed time ;

“ part of the United Kingdom ” means England; Scotland, Northern Ireland, or the Isle of Man as the case may be.

(3) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

2. The National Register required to be established under the Act shall consist of central indexes and maintenance registers established and maintained in accordance with these regulations.

PART II

INITIATION OF THE REGISTER

Division of Country into Districts

3. For the purpose of the collection, reception and recording of the information required by the Act and by this part of these regulations in relation to persons in the United Kingdom at the appointed time the Registrar-General may divide any part of the United Kingdom into districts and may provide for the grouping of any such districts into areas.

Appointment and conditions of service of enumerators, etc.

4. The Registrar-General shall assign or appoint a supervising officer for each enumeration area and an enumerator or enumerators for each enumeration district.

5. An appointment of an enumerator under the last preceding regulation shall be terminable by either party thereto by two months' notice in writing :

Provided that where any such notice is due to expire not later than

three weeks before the appointed time it shall not take effect until the person appointed has completed all duties falling to be discharged by him in accordance with the Act and these regulations.

6. The Registrar-General may require a supervising officer or enumerator appointed under these regulations to make a statutory declaration that such supervising officer or enumerator has properly and sufficiently performed his duties under the Act and these regulations, and may authorise any superintendent registrar or registrar to take such declaration.

7. A person appointed as census supervisor and a person appointed as enumerator or assistant enumerator under the Census General Regulations, 1939, shall in lieu of the duties undertaken by him in connection with such appointment and subject to the terms and conditions, with any necessary modifications, attaching thereto, perform the duties of a supervising officer or enumerator respectively under these regulations.

Making of Returns

8. On the appointed day returns stating the particulars specified in Part I of the First Schedule to these regulations shall be made with respect to the several classes of persons in Great Britain and the Isle of Man mentioned in the first column of the Second Schedule to these regulations by the persons specified opposite each such class in the second column of that Schedule and each such return shall be signed by the person by whom it is made :

Provided that no return shall be made in respect of any person—

(a) who at the appointed time is serving in and not on leave from His Majesty's naval, military or air forces ; or

(b) who is qualified to be included in the Mercantile Marine Register.

9. A prescribed person who has not before the appointed day been supplied with a sufficient number of forms for the purpose of the returns required to be made by him under regulation 8 shall apply for and obtain the requisite forms at the office of the supervising officer for the enumeration area in which the returns are to be made.

10. It shall be the duty of—

(a) an enumerator, and

(b) any person delivering or supplying a form of return for the purpose of regulation 8,

if so requested by any prescribed person or by any person acting on his behalf to give such explanations as to the form of return or the procedure to be followed in making the return as are reasonably necessary to enable the prescribed person to make a proper return.

11. Every person with respect to whom it is the duty of a prescribed person to make a return under regulation 8 and any person having knowledge of the particulars required to be included in such return shall give to the prescribed person such information as he may reasonably require for the purpose of enabling him to make the return.

Collection and delivery of Returns

12.—(1) Every enumerator shall, in the course of the day following the appointed day or as soon thereafter as may be, collect or cause to be collected all forms of return for the distribution of which he was responsible.

(2) A prescribed person or person acting on his behalf, when requested so to do by an enumerator or other duly authorised person, shall surrender any return made by that prescribed person under

regulation 8 and a prescribed person to whom or to whose agent no such request shall have been made within five days after the appointed day shall deliver or cause to be delivered any such return at the office of the supervising officer for the enumeration area in which the return was made.

(3) Any person collecting or receiving a return in accordance with this regulation shall examine it and satisfy himself that the entries thereon are properly and sufficiently made and shall make all necessary inquiries for that purpose and make such corrections in the return as appear to him to be requisite.

(4) Every person shall give to the person collecting or receiving a return in accordance with this regulation such information as that person may reasonably require for the performance of his duties under the last preceding paragraph.

13. Every enumerator or other person collecting or receiving returns made under regulation 8 shall prepare a transcript or summary and abstract of the returns collected or received by him in such books or upon such forms and in accordance with such procedure as the Registrar-General may direct and shall deliver such returns and the transcripts or summaries and abstracts thereof to the supervising officer for the enumeration area in which his district is situate for transmission to the Registrar-General.

14.—(1) Returns stating such of the particulars specified in Part I of the First Schedule to these regulations as can be ascertained in each case in accordance with this regulation shall, on the appointed day or as soon thereafter as may be, be made in relation to all persons resident in Northern Ireland at the appointed time other than persons then—

(a) serving in and not on leave from His Majesty's naval, military or air forces, or

(b) qualified to be included in the Mercantile Marine Register.

(2) The returns shall be made by such officers or other persons as the Registrar-General may appoint for that purpose and from any information at the disposal of those officers or persons or which may be made available to them by the Registrar-General or any Government Department or local authority.

(3) Every person making returns under this regulation shall deliver such returns to the Registrar-General.

Establishment of Central Indexes and Maintenance Registers

15. The particulars contained in the returns made in each part of the United Kingdom under this Part of these regulations shall be recorded in an index, to be called the central index, which shall be established and kept in that part of the United Kingdom.

16. The Registrar-General shall appoint for each part of the United Kingdom a person, to be called the central national registration officer, to be in charge of the central index for that part, and shall determine the place in which such central index is to be kept.

17.—(1) For the purpose of providing a record of the changes in the registered population of each of the local areas specified in the next succeeding regulation the Registrar-General shall establish in and for Northern Ireland, in and for the Isle of Man and in and for each such area in Great Britain a separate register, to be called the maintenance register, and shall appoint for each such area a person, to be known as the local national registration officer, who shall perform the duties assigned to him, by or under these regulations and, save in the case of

a local national registration officer in Northern Ireland or the Isle of Man, shall have charge of the maintenance register in his area.

(2) The maintenance registers for Northern Ireland and the Isle of Man shall be kept with the respective central indexes and be in the charge of the central national registration officers for Northern Ireland and the Isle of Man respectively.

18.—The local areas for the purposes of the last preceding regulation shall be—

- (i) in England, the areas of boroughs, urban or rural districts, or such groups or sub-divisions of those areas as the Registrar-General may direct.
- (ii) in Scotland, the areas of counties or large burghs or such groups or sub-divisions of those areas as the Registrar-General may direct.
- (iii) in Northern Ireland, the areas of county boroughs, municipal boroughs, urban districts, towns created under the Towns Improvement (Ireland) Act, 1854, or rural districts, or such groups or sub-divisions of those areas as the Registrar-General may direct.
- (iv) in the Isle of Man, the areas of town or village districts or civil parishes, or such groups or sub-divisions of those areas as the Registrar-General may direct.

PART III

MAINTENANCE OF THE REGISTER

Change of Circumstances

19. Every registered person upon changing his place of residence after the appointed time shall, within seven days thereafter, give notice of the removal and such particulars relating thereto as may be required on a form to be provided by the Registrar-General and shall, unless in any particular case the officer dispenses with such attendance, attend for that purpose at the office of the local national registration officer for the local area in which his new place of residence is situate :

Provided that in the case of a registered person who for the purposes of these regulations is deemed to be in the charge of some other person the notice and particulars shall be given by that other person.

New Registration

20.—(1) In respect of every person in the United Kingdom who—

- (a) should have been registered in Great Britain or the Isle of Man in accordance with Part II of these regulations but was not so registered ; or
- (b) enters the United Kingdom after the appointed time, not being a registered person ; or
- (c) is discharged after the appointed time from any of His Majesty's naval, military or air forces ; or
- (d) being registered in the Mercantile Marine Register ceases to be qualified to be included in that Register ;

a return stating the relevant particulars specified in Part I of the First Schedule to these regulations and, except in the case of a person to whom sub-paragraph (b) of this paragraph applies, including a statement of the reason why the person concerned is not already registered, shall be made and signed by such person or by the person who for the purposes of these regulations is deemed to be in charge of that person

and in such last mentioned case the person with respect to whom the return is to be made shall give to the prescribed person such information as he may reasonably require to enable him to make the return.

(2) The return shall be completed and presented as soon as may be at the office of the local national registration officer for the local area in which the person with respect to whom it is made resides.

(3) The return shall be made—

(a) with respect to a person entering the United Kingdom after the appointed time, upon such form provided for the purpose by the Registrar-General, as may have been delivered to him upon landing by the Immigration Officer or Officer of the Board of Customs and Excise or other person duly authorised in that behalf by the Registrar-General ;

(b) in any other case upon the form provided for the purpose by the Registrar-General and made available at the office of the local national registration officer.

21.—(1) A registrar on registering the birth of any child born in the United Kingdom after the appointed time shall complete and sign a return in respect of such child stating the particulars specified in Part II of the First Schedule to these regulations.

(2) A return made under this regulation shall be delivered by the registrar directly or otherwise to the person who for the purposes of these regulations is deemed to be in charge of the child to whom the return relates and such person shall certify thereon that he is such person and, as soon as may be, produce the return to the local national registration officer for the local area in which he resides.

Persons ceasing to be registered

22. A registrar on registering the death of a registered person shall give notice of the death, in such manner as may be directed by the Registrar-General, to the central national registration officer for the part of the United Kingdom in which the death took place.

23. Where any registered person—

(a) is enlisted for service or returns to duty in any of His Majesty's naval, military or air forces ; or

(b) enters into employment by virtue of which he becomes qualified to be included in the Mercantile Marine Register ;
or

(c) embarks for a destination outside the United Kingdom ; notice thereof shall be given under arrangements to be made by the Registrar-General with the appropriate Department or authority to the central national registration officer for England.

Operation of Central Indexes and Maintenance Registers

24. A local national registration officer for a local area in Great Britain upon receiving a notice of removal under regulation 19 shall record the removal in the maintenance register for that area and, in the case of a removal from some other local area, shall notify the removal to the central national registration officer for the part of the United Kingdom in which the person to whom the notice relates was first registered :

Provided that if the person was first registered in Northern Ireland or the Isle of Man such notification shall be given to the central national registration officer for the part of the United Kingdom in which the local national registration officer's area is situate.

25. A local national registration officer for a local area in Great Britain upon receiving a return under regulation 20 or regulation 21 shall register the person to whom the return relates in the maintenance register for that area and furnish such particulars as the Registrar-General may direct to the appropriate central national registration officer for inclusion in the central index.

26. A local national registration officer for a local area in Northern Ireland or the Isle of Man upon receiving a notice of removal under regulation 19 or upon receiving a return under regulation 20 or regulation 21 shall furnish such particulars thereof as the Registrar-General may direct to the central national registration officer for Northern Ireland or the Isle of Man, as the case may be, for inclusion in the appropriate maintenance register.

27. A central national registration officer for any part of the United Kingdom upon receiving notice that a registered person has removed from one local area to another or has become a person who is not required to be registered shall—

- (a) if the notice relates to a person first registered in some other part of the United Kingdom, transmit the notice to the central national registration officer for that other part; and
- (b) if the notice relates to a person first registered in that part of the United Kingdom—
 - (i) record in the central index the local area to which the person has removed, and except in the case of Northern Ireland and the Isle of Man, notify the local national registration officer of the local area from which the person has removed, or, as the case may be;
 - (ii) record in the central index that the person is no longer required to be registered and, except in the case of Northern Ireland and the Isle of Man, notify the local national registration officer for the local area in which the person last resided.

PART IV

IDENTITY CARDS

28.—(1) Every enumerator, local national registration officer or other duly authorised person on receiving a registration return filled up and signed, and, where necessary, completed and corrected, in accordance with these regulations, other than a return made under sub-paragraph (b) of paragraph (1) of regulation 20 in respect of a person who has at any time been a registered person, shall fill up and deliver to the person presenting such return an identity card in respect of each person properly included in such return.

(2) Every person on making a return under regulation 14 shall fill up an identity card in respect of each person included in the return and deliver it directly or otherwise to the person to whom it relates or to the person who for the purposes of these regulations is deemed to be in charge of that person

(3) An identity card issued under these regulations shall be in the form set forth in the Third Schedule to these regulations or in such other form substantially to the like effect as the Registrar-General may determine.

29. It shall be the duty of every prescribed person to ensure that an identity card issued in respect of any person included in a registration return made by him is delivered to the person to whom the card relates, or, if that person is for the purpose of these regulations deemed to be in the charge of some other person, to that other person.

30. The person to whom an identity card relates, or the person who for the purposes of these regulations is deemed to be in charge of such person, shall, subject to the provisions of these regulations on receipt of such card, be responsible for the custody thereof.

31.—(1) Where a person becomes a person who, for the purpose of these regulations, is deemed to be in the charge of some other person he shall surrender his identity card to such other person.

(2) Where a person ceases to be such a person as aforesaid or passes, within the meaning of these regulations, from the charge of one person to the charge of some other person, the person having the custody of his identity card shall deliver it to him or to the person into whose charge he so passes as the case may be.

32.—(1) Where an identity card relating to a person required to be registered is lost, destroyed or defaced the person having the custody thereof shall forthwith notify the local national registration officer for the local area in which he resides and, if so requested by that officer, shall fill up a form of application for the issue of a duplicate and pay the fee herein prescribed whereupon the officer shall take such steps as may be necessary for the issue of a duplicate :

Provided that in the case of an identity card which has been defaced no duplicate shall be issued unless the original identity card has been delivered up.

(2) The fee payable under this regulation shall be one shilling except in the case of a defaced identity card the contents of which are in the opinion of the local national registration officer decipherable when the fee shall be sixpence.

33. Any person who finds a lost identity card shall forthwith deliver it to some responsible officer at a police station or at the national registration office of the local area in which the card was found and shall on such delivery be entitled to a reward of one shilling.

34. Upon the death of a registered person the person having possession of his identity card shall deliver it—

- (a) before the registration of the death to the person attending upon the registrar for the purpose of such registration ; or
- (b) within seven days after the date of the death to the registrar by whom the death is registered.

35. Any person attending upon a registrar for the purpose of the registration of the death of a registered person shall—

- (a) if he has received that person's identity card deliver it to the registrar ; or
- (b) if he has not received that person's identity card furnish on request by the registrar any information within his knowledge as to the name and address of the person having possession of the card.

36. A person who ceases to be a person required to be registered shall forthwith surrender his identity card to a person authorised by the Registrar-General to receive it.

37.—(1) A local national registration officer shall be a person authorised to require the production of an identity card in accordance with subsection (4) of section 6 of the Act.

(2) If a person responsible for the custody of an identity card fails to produce such card when required so to do in accordance with subsection (4) of section 6 of the Act he shall produce it within two clear days thereafter to some responsible officer—

- (a) if the demand was made by a police constable in uniform, at a police station to be specified by such person at the time of the demand; or
- (b) if the demand was made by a local national registration officer, at the office of that officer.

PART V

GENERAL

38. The Registrar-General may give to persons employed for any of the purposes of the Act and regulations such instructions or directions, whether particular or general, as he may think necessary for the due performance by those persons of their duties and any such instructions or directions shall be complied with by the persons to whom they are given.

39. Where it appears to the Registrar-General that a person appointed to an office under these regulations is, for reasons of health or otherwise, unfit to perform the duties of that office the Registrar-General may appoint some fit and proper person in his place to perform such duties.

40. The Registrar-General may, to such extent and subject to such restrictions as he may think proper, delegate all or any of his functions under these regulations to any specified persons or classes of persons.

41. A central national registration officer, a local national registration officer and a registrar to whom any information has been given in pursuance of the Act and regulations may require the person supplying that information to furnish such documentary or other evidence of the truth thereof as it is within the power of that person to furnish.

42. A person having the custody, whether on his own behalf or on behalf of any other person, of any forms of return or other confidential documents relating to the initiation or maintenance of the register shall keep such forms or other documents in such manner as to prevent any unauthorised person having access thereto.

43. For the purposes of these regulations the persons specified in the first column of the Fourth Schedule hereto shall be deemed to be in charge of the persons specified opposite the reference to those persons in the second column of that Schedule.

44. Subject to the provisions of these regulations the functions thereunder of the Registrar-General shall be discharged in England by the Registrar-General of Births, Deaths and Marriages in England, in Scotland by the Registrar-General of Births, Deaths and Marriages in Scotland, in Northern Ireland by the Registrar-General of Births, Deaths and Marriages in England through the agency of the Registrar-General for Northern Ireland, and in the Isle of Man by the Registrar-General of Births, Marriages and Deaths appointed under the Civil Registration and Dissenters' Marriage Act, 1924.

45. Except as otherwise provided by these regulations nothing in the Act or these regulations shall apply to—

- (a) any person belonging to His Majesty's naval, military or air forces; or

- (b) any person qualified to be included in the Mercantile Marine Register ;

and, subject as aforesaid, no such person shall be required to be registered.

46. For the purposes of these regulations, a person shall be deemed to be qualified to be included in the Mercantile Marine Register if he is a person to whom a certificate of identity may be granted under any order made by the Board of Trade under regulation 45A of the Defence Regulations, 1939, and shall be deemed to be registered in that Register if and so long as he is the holder of a certificate of identity issued under any such order.

47. In the application of these regulations to Scotland—

- (1) for any reference to the Census General Regulations, 1939, there shall be substituted a reference to the Census (Scotland) General Regulations, 1939.
- (2) for any reference to the Mental Deficiency Act, 1913, there shall be substituted a reference to the Mental Deficiency and Lunacy (Scotland) Act, 1913.
- (3) for the definition of " registrar " in paragraph (2) of regulation 1 there shall be substituted the following definition :—
" ' registrar ' means a registrar of births, deaths and marriages."

48. In the application of these regulations to Northern Ireland, for any reference to the Mental Treatment Act, 1930, there shall be substituted a reference to the Mental Treatment Act (Northern Ireland), 1932.

49. In the application of these regulations to the Isle of Man—

- (1) for any reference to the Census General Regulations, 1939, there shall be substituted a reference to the Census General Regulations, 1939, made under section 4 of the Census Act, 1929.
- (2) for any reference to the Mental Treatment Act, 1930, there shall be substituted a reference to the Mental Diseases Acts, 1924 and 1932.

FIRST SCHEDULE

PART I

Particulars to be stated in Registration Returns made under regulations 8 and 20.

In all cases :—

1. Full Name.
2. Full Postal Address.
3. Sex.
4. Date of Birth.
5. In respect of persons aged 16 years or over, whether single, married, widowed or marriage dissolved by divorce.
6. Occupation, profession, trade or employment stating the precise branch and, if occupied in trade or manufacture, the particular kind of work done, of material worked in or article made or dealt in, if any.

In cases falling within Regulation 8 or Regulation 20 (1) (b) :—

7. In respect of persons on the Retired, Emergency or Pensioned Lists of the Royal Navy or Royal Marines, or belonging to the Territorial Army or to any Naval, Military or Air Force Reserve or Auxiliary Force, the Service, and whether Retired, etc., the Reserve or Force, Unit, Rank and Number, if any.

8. In respect of persons belonging to any Women's Auxiliary Force or

Organisation, administered by the Royal Navy, Army or Royal Air Force, the Force or Organisation, Unit, Rank and Number, if any.

9. In respect of persons belonging to or enrolled in—

(a) the Special Constabulary or any Police Reserve ;

(b) any Ambulance or Nursing Auxiliary Service or Reserve ; or the Mercantile Marine War Service List or Coastguard Auxiliary Service ;

(c) any Civil Defence Service or Reserve (including any Air Raid Precautions Service or Reserve or Auxiliary Fire Service) or in any Land Army Force or Reserve ;

the Force, Service or Reserve, etc., the authority with whom enrolled and the person's Service Number, if any.

PART II

Particulars to be stated in Registration Returns made under regulation 21.

1. Forenames.
2. Surname of Parents or Parent.
3. Sex.
4. Date of Birth.

SECOND SCHEDULE

Classes of Persons with respect to whom returns are to be made.

1. Persons present at the appointed time in a dwelling, lodgings or rooms, separately occupied by any private household of which they are members, guests (including paying guests or boarders), or employees.

2. Persons present at the appointed time on the premises of any hotel, club, boarding-house, or common or other lodging-house.

3. Persons present at the appointed time on the premises of any public or private hospital, sanatorium, convalescent or nursing home, poor law institution, asylum, mental hospital, institution, certified house or approved home within the meaning of the Mental Deficiency Act, 1913, religious or charitable community, residential school or college, or residential institution of any other kind.

4. Persons, not being persons qualified to be included in the Mercantile Marine Register, present at the appointed time on any ship, boat, barge, or other vessel in any inland waters.

5. Persons present at the appointed time on the premises of any civil prison, lock-up or other place of detention.

6. Persons who, not having been enumerated elsewhere, arrive at any of the places or premises above mentioned after the appointed time and before the returns in respect of persons present on or in such premises or places at that time are required to be delivered up.

7. Persons in the United Kingdom at the appointed time and not included among any of the classes of persons above mentioned.

Persons by whom returns are to be made.

1. The head, or person for the time being acting as the head of the household.

2. The manager or other person for the time being in charge of the premises.

3. The chief resident officer or other person for the time being in charge of the institution.

4. The captain, master, or other person for the time being in charge of the vessel.

5. The governor or other person for the time being in charge of the premises.

6. The person specified above as the person by whom the returns are to be made with respect to the persons present at the appointed time on or in any of the premises or places above mentioned.

7. The person with respect to whom the return is to be made.

THIRD SCHEDULE

Form of Identity Card

NATIONAL REGISTRATION

(a)	(a)	(a)
(b)		

1. This identity card must be carefully preserved. You may need it under conditions of national emergency for important purposes. You must not lose it or allow it to be stolen. If, nevertheless, it is stolen or completely lost, you must report the fact in person at any local National Registration Office.

2. You may have to show your identity card to persons who are authorised by law to ask you to produce it.

3. You must not allow your identity card to pass into the hands of unauthorised persons or strangers. Every grown up person should be responsible for the keeping of his or her identity card. The identity card of a child should be kept by the parent or guardian or person in charge of the child for the time being.

4. Anyone finding this card must hand it in at a Police Station or National Registration Office.

NATIONAL REGISTRATION

(a)	(a)	(a)
(b)		

DO NOTHING WITH THIS
PART UNTIL YOU ARE TOLD

Full Postal Address of above
Person :—

.....
.....
.....

(Signed)

Date

(a) for insertion of registration number to be allotted in accordance with instructions of the Registrar-General.

(b) for insertion of name.

FOURTH SCHEDULE

Classes of persons deemed for the purposes of these regulations to be in charge of other persons

1. The chief resident officer or other person for the time being in charge of any poor law institution, asylum, institution within the meaning of the Mental Treatment Act, 1930, or institution, certified house or approved home within the meaning of the Mental Deficiency Act, 1913.

2. The governor or other person for the time being in charge of the premises of any civil prison, lock up or other place of detention.

3. The headmaster or other person for the time being in charge of any school, orphanage or other residential institution for the young.

4. Any person for the time being having the actual custody, care or control of another person whose case is not already provided for by this Schedule.

1. The inmates of the institution.

2. Persons detained on the premises.

3. The inmates of the institution.

4. The person in such actual custody, care or control.

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CENTRAL ELECTRICITY BOARD

See ELECTRICITY SUPPLY.

CIVIL DEFENCE

See AIR RAID PRECAUTIONS.

DANGEROUS BUILDINGS

See BUILDING.

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STATUTES

THE CANCER ACT, 1939

(2 & 3 Geo. 6, c. 13.)

An Act to make further provision for the treatment of cancer, to authorise the Minister of Health to lend money to the National Radium Trust, to prohibit certain advertisements relating to cancer, and for purposes connected with the matters aforesaid. [494] [29th March, 1939.]

1. Duty of local authorities.—(1) It shall be the duty of the council of every county and county borough in England and Wales to make arrangements to secure that the facilities for the treatment of persons suffering from cancer are adequate for the needs of the county or borough, and to submit its arrangements for the approval of the Minister within one year from the commencement of this Act or such longer period as the Minister may in any case allow. [495]

The Minister is the Minister of Health ; see s. 5 (1), *post*.

(2) The arrangements so submitted by any such council shall include arrangements—

- (a) for facilitating the diagnosis of cancer ;
- (b) for the treatment of cancer either in hospitals maintained by the council or in hospitals maintained by other councils or local authorities or in voluntary hospitals ;
- (c) for the payment, in such cases as the council considers necessary, of all or any travelling expenses (including the travelling

expenses of a companion) reasonably incurred by persons for the purposes of availing themselves of the services provided under the arrangements ;

- (d) for such other matters as appear incidental to or consequential on the arrangements for the treatment of cancer. [496]

(3) Before submitting arrangements to the Minister under this section a council shall consult—

- (a) such committees or other bodies as the council considers to represent both the governing bodies and the medical and surgical staffs of the voluntary hospitals providing services in or for the benefit of its area ; and

- (b) such local organisations of registered medical practitioners as the council considers to represent the opinions of such practitioners practising in its area on the questions to be considered in making the arrangements. [497]

(4) The Minister may approve, either with or without modifications, any arrangements submitted to him by a council under this section, and it shall be the duty of the council to carry its arrangements as approved by the Minister into effect. [498]

(5) A council may from time to time, and shall when required by the Minister, make and submit to the Minister alterations or extensions of the arrangements made by the council under this section, and subsections (3) and (4) of this section shall apply to any such alterations or extensions as they apply to the original arrangements. [499]

(6) Nothing in this section shall authorise the establishment by any council of a general domiciliary service by medical practitioners. [500]

(7) The Public Health Act, 1936, shall have effect as if this section, except in so far as it relates to the London County Council, were included in Part V of that Act. [501]

For the Public Health Act, 1936, Part V, see 29 Statutes 427.

As to the effect of this section with respect to the London County Council, see s. 6, *post*.

(8) Without prejudice to the provisions of any enactment enabling councils of counties and county boroughs to co-operate or combine, the Minister may require two or more such councils to combine, to such extent and on such terms as he may, in default of agreement between the councils concerned, direct, for the purpose of making arrangements under this section. [502]

(9) Any order or agreement constituting under any enactment a joint board or joint committee to discharge the functions of two or more councils under this section may provide for the co-option of such number of members of the board or committee as may be specified in the order or agreement :

Provided that the number so specified shall not exceed one-third of the total number of the members of the board or committee. [503]

2. Financial provisions.—(1) The following provisions of this section shall have effect with a view to fulfilling the intentions of the Local Government Act, 1929, as declared by section one hundred and thirty-five thereof, namely, that in the event of material additional expenditure being imposed on any class of local authorities by reason of the institution of a new service after the commencement of that Act, provision should be made for increased contributions out of moneys provided by Parliament. [504]

For the Local Government Act, 1929, s. 135, see 10 Statutes 974.

(2) In respect of the year ending on the thirty-first day of March, nineteen hundred and forty and of each subsequent year in the third and fourth fixed grant periods, there shall be paid out of moneys provided by Parliament, to the council of every county and county borough in England and Wales (hereafter in this section referred to as a "council") on which additional expenditure is imposed by this Act in respect of that year, a grant calculated to the nearest pound by—

- (a) multiplying by the weighting factor one-half the amount of the additional expenditure so imposed on the council, and
- (b) dividing the product by the average weighting factor :

Provided that the amount of the grant payable under this subsection to any council shall not exceed seventeen-twentieths of the additional expenditure so imposed on that council. [505]

As to "fixed grant periods," see s. 86 (2) of the Local Government Act, 1929 (10 Statutes 938). The third fixed grant period runs from 1st April, 1937, for five years, and the fourth fixed grant period runs for another five years after the termination of the third period.

(3) For the fifth and every subsequent fixed grant period, the General Exchequer Contribution shall include such increased contribution by reason of the additional expenditure imposed on any council by this Act as Parliament may hereafter determine. [506]

See the note to sub-s. (2), *supra*.

(4) Grants payable under this section shall be payable at such times and in such manner as the Treasury may direct and subject to such conditions as to records, certificates, audit or otherwise as the Minister may, with the approval of the Treasury, determine. [507]

The Minister is the Minister of Health ; see s. 5 (1), *post*.

(5) For the purpose of section one hundred and four of the Local Government Act, 1929 (which authorises the reduction of grants payable under Part VI of that Act to a council which fails to maintain an efficient service), grants payable under this section shall be deemed to be payable under the said Part VI. [508]

For the Local Government Act, 1929, s. 104, see 10 Statutes 948.

(6) In determining for the purpose of section one of the Local Government (Financial Provisions) Act, 1937, the amount of the rate and grant borne expenditure in the year ending on the thirty-first day of March nineteen hundred and forty-one, no account shall be taken of the additional expenditure imposed on any council in respect of that year by this Act. [509]

For the Local Government (Financial Provisions) Act, 1937, s. 1, see 30 Statutes 377.

(7) For the purpose of this section, expenditure incurred by a council in respect of any year in the provision of treatment for persons suffering from cancer shall be deemed to be additional expenditure imposed by this Act on that council in respect of that year if, and to the extent that, it is estimated to exceed the expenditure so incurred by that council in respect of the year ended on the thirty-first day of March nineteen hundred and thirty-eight. [510]

(8) Any such estimate as aforesaid made for the purpose of subsection (2) or subsection (6) of this section shall be made to the satisfaction of the Minister in accordance with directions given by him after consultation with such associations of local authorities as appear to him to be concerned and with any council with which consultation appears to him to be desirable, and any such directions—

- (a) may provide that expenditure incurred by any council in the

provision of treatment for persons suffering from cancer shall for the purposes of this section require the approval of the Minister; and

- (b) may also provide that the amount of any expenditure so incurred in respect of any particular services by a council, or by a council of any class specified in the directions, shall be estimated by reference to the estimated average net annual expenditure incurred in respect of those services by all councils or by councils of that class. [511]

(9) In this section the following expressions have the meanings hereby respectively assigned to them:—

“Average weighting factor” means the quotient obtained by dividing the aggregate weighted population of all the counties and county boroughs in England and Wales by their aggregate estimated population;

“Weighting factor”, in relation to a county or county borough, means the quotient obtained by dividing the weighted population thereof by the estimated population thereof;

“Estimated population”, “weighted population”, “fixed grant period” and “General Exchequer Contribution” have the same meanings as in the Local Government Act, 1929, as amended by any subsequent enactment. [512]

For the meaning of “estimated population” and “weighted population” in the Local Government Act, 1929, see s. 134 of that Act (10 Statutes 971). For the meaning of “fixed grant period” and “General Exchequer Contribution,” see s. 86 of that Act (10 Statutes 938).

3. Loans to National Radium Trust.—(1) The Minister may lend money to the National Radium Trust, on such conditions as the Treasury may determine, for the purpose of enabling that Trust to purchase radium and other radio-active substances and apparatus and appliances required for radio-therapeutic treatment:

Provided that—

(a) the sums lent under this section shall not in the aggregate exceed five hundred thousand pounds; and

(b) no money shall be lent under this section after the expiration of ten years from the commencement of this Act. [513]

(2) Any sums required by the Minister for the purpose of loans under this section shall be paid out of moneys provided by Parliament. [514]

(3) The principal of and the interest on any sums lent under this section shall by virtue of this Act be charged on the undertaking and all the revenues of the said Trust. [515]

(4) Any sums received by the Minister by way of repayment of a loan under this section or by way of interest thereon shall be paid into the Exchequer. [516]

The Minister is the Minister of Health; see s. 5 (1), *post*.

4. Prohibition of certain advertisements.—(1) No person shall take any part in the publication of any advertisement—

(a) containing an offer to treat any person for cancer, or to prescribe any remedy therefor, or to give any advice in connection with the treatment thereof; or

(b) referring to any article, or articles of any description, in terms which are calculated to lead to the use of that article, or articles of that description, in the treatment of cancer. [517]

(2) If any person contravenes any of the provisions of the foregoing

subsection, he shall be liable on summary conviction, in the case of a first conviction, to a fine not exceeding fifty pounds, and, in the case of a subsequent conviction, to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both such a fine and such imprisonment. [518]

(3) Where, in any proceedings for a contravention of subsection (1) of this section it is proved—

- (a) that an advertisement was published referring to any article, or articles of any description, in terms calculated to lead to the use of that article or articles of that description in the treatment of cancer; and
- (b) that the advertisement also referred to the article or articles in terms calculated to indicate that it or they were manufactured, produced, imported, sold or offered for sale, by the person charged;

then, unless the contrary is proved, it shall be presumed for the purpose of those proceedings that that person took part in the publication of the advertisement, but without prejudice to the liability of any other person. [519]

(4) In any proceedings for a contravention of subsection (1) of this section, it shall be a defence for the person charged to prove—

- (a) that the advertisement to which the proceedings relate was published only so far as was reasonably necessary to bring it to the notice of persons of the following classes or of one or some of them, that is to say,—

- (i) members of either House of Parliament or of a local authority or of the governing body of a voluntary hospital;

- (ii) (without prejudice to the generality of the foregoing sub-paragraph) persons concerned in making or carrying into effect arrangements under section one of this Act;

- (iii) registered medical practitioners;

- (iv) registered nurses;

- (v) registered pharmacists and authorised sellers of poisons;

- (vi) persons undergoing training with a view to becoming registered medical practitioners, registered nurses or registered pharmacists;

- (vii) persons carrying on a business which includes the sale or supply of surgical appliances; or

- (b) that the said advertisement was published only in a publication of a technical character intended for circulation mainly amongst persons of the classes mentioned in the last preceding paragraph or one or some of those classes; or

- (c) that the said advertisement was published in such circumstances that he did not know and had no reason to believe that he was taking part in the publication thereof. [520]

“Hospital” is defined in s. 5 (1), *post*.

(5) Nothing in this section shall apply in respect of any advertisement published by a local authority or by the governing body of a voluntary hospital or by any person acting with the sanction of the Minister. [521]

The Minister is the Minister of Health; see s. 5 (1), *post*.

- (6) A prosecution for an offence under this section shall not be

instituted in England or Wales without the consent of the Attorney-General or the Solicitor-General. [522]

(7) Subject to the provisions of the last foregoing subsection, it shall be the duty of the council of every county and county borough to institute proceedings under this section. [523]

(8) In this section the expression "advertisement" includes any notice, circular, label, wrapper or other document, and any announcement made orally or by any means of producing or transmitting sounds. [524]

5. Interpretation.—(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"Hospital" includes a clinic, dispensary or other institution for the reception of the sick whether as in-patients or as out-patients;

"The Minister" means the Minister of Health;

"The National Radium Trust" means the body incorporated by that name by royal charter. [525]

(2) In this Act references to persons suffering from cancer shall be construed as including references to persons suspected to be so suffering. [526]

6. Application to London.—The Public Health (London) Act, 1936, shall have effect as if section one of this Act, in so far as it relates to the London County Council, were included in Part IX of that Act immediately before section two hundred and nineteen thereof, and the following sections of that Act shall have effect as if references to tuberculosis included references to cancer, namely—

(a) section two hundred and twenty (which provides for the powers of the Minister in case of failure by the said council to make adequate arrangements for the treatment of tuberculosis);

(b) section two hundred and twenty-two (which enables the said council to enter into agreements as respects the treatment of tuberculosis with other councils);

(c) section two hundred and twenty-three (which relates to the expenses incurred by the said council in the treatment of tuberculosis). [527]

For the Public Health (London) Act, 1936, ss. 219–223, see 30 Statutes 565, *et seq.*

[7. Application to Scotland.] [528]

8. Short title, citation and extent.—(1) This Act may be cited as the Cancer Act, 1939.

(2) Section one of this Act, in so far as it relates to the council of a county in England and Wales, other than the London County Council, or to the council of a county borough, may be cited together with the Public Health Acts, 1936 and 1937, as the Public Health Acts, 1936 to 1939.

(3) Section one of this Act, in so far as it relates to the London County Council, and section six of this Act may be cited together with the Public Health (London) Act, 1936, as the Public Health (London) Acts, 1936 and 1939.

(4) This Act shall not extend to Northern Ireland. [529]

ORDERS, CIRCULARS AND MEMORANDA

CANCER ACT, 1939

Circular 1884

October 16, 1939

SIR,—I am directed by the Minister of Health to refer to the provisions of Section 1 (1) of the Cancer Act, 1939, whereby, as stated in paragraph 4 of Circular 1813 of the 31st May, 1939, the duty is placed upon Local Authorities to submit their arrangements under the Act to the Minister within one year from the commencement of the Act (i.e., not later than the 29th March, 1940), or such longer period as he may in any case allow.

2. The Minister realises that by reason of the heavy pressure of special work which has been thrown upon Local Authorities in recent months it has not been possible for them generally to give such attention to the matter as would enable them to submit their arrangements within the period laid down in the Act, and that it will generally be impossible for them to proceed in the early future with the carrying into effect of any arrangements that might be made.

3. In these circumstances the Minister hereby extends in all cases to the 31st March, 1941, the period during which Local Authorities may submit their arrangements to him. He trusts, however, that as opportunity occurs they will resume consideration of the matter so that the arrangements contemplated under the provisions of the Act may be made and brought into operation at as early a date as possible.

4. A copy of this Circular is being sent to the Medical Officer of Health and further copies can be obtained through any bookseller, or direct from H.M. Stationery Office, at any of the addresses shown below.

I am, Sir, etc.

[530]

HYDROGEN CYANIDE (FUMIGATION OF BUILDINGS)

REGULATIONS, 1938

S. R. & O., 1938, No. 1578

December 19, 1938

In pursuance of Section 1 of the Hydrogen Cyanide (Fumigation) Act, 1937, I hereby make the following Regulations.

† *Definitions*

1. In these Regulations :—" Fumigation " means the fumigation with hydrogen cyanide of any building or part thereof.

" Fumigant " means hydrogen cyanide.

" Undertaker " means any person who, under contract or otherwise, undertakes the carrying out of a *fumigation*.

" Operator " means a person designated in writing by the *undertaker* to be in charge of the carrying out of a *fumigation*.

" Fumigation area " means the building, or part of a building, undergoing *fumigation*.

" Risk area " means any part of a building into which there is any reason to apprehend that the *fumigant* may penetrate from the *fumigation area*, and, in any case, includes those parts of any building which

† Terms to which defined meanings are given are printed throughout in italics.

are less than 30 feet from the nearest boundary of the *fumigation area* unless separated from the *fumigation area* by a yard, street or other open space not less than 10 feet in width.

"Prescribed" means prescribed by the Secretary of State.

"Medical Officer of Health" means the Medical Officer of Health of the district in which the *fumigation area* is situate.

Duties

2.—(1) It shall be the duty of the *undertaker*—

- (a) to observe the requirements of Regulations 3 (1) and (2), 4 and 13 (1), (2) (a) and (3);
- (b) to take such steps as may be necessary to enable the *operator* to carry out the requirements of Regulations 3 (3) and 5 to 9 inclusive, 11, 12 and 13 (2) (b); and
- (c) generally to exercise such supervision and take such steps as are within his power to secure the due observance of the regulations by those engaged by him to carry out a *fumigation*.

(2) It shall be the duty of the *operator* to secure that the requirements of Regulations 4 (3), 5 to 12 inclusive, and 13 (2) (b) are complied with and of all other persons employed in connection with the *fumigation* to co-operate with the *operator* for that purpose.

3.—(1) Notice in writing of any forthcoming *fumigation* stating the description of the *fumigation area* and of the *risk area* and the date and time at which the *fumigation* will be commenced shall be sent to the officer in charge of the police station nearest to the *fumigation area*, and to the *Medical Officer of Health*; the notice shall be sent so as to reach them not less than 48 hours before the time of commencement of the *fumigation* unless otherwise arranged with each of the officers concerned.

(2) Any further particulars as to the carrying out of the *fumigation* which may be asked for by the *Medical Officer of Health* shall be supplied.

(3) In cases in which any part of the *fumigation area* is used for the business of the manufacture or storage of foodstuffs the *undertaker* may apply to the *Medical Officer of Health* for a certificate of exemption from the obligations of Regulation 5 (b) with regard to foodstuffs in the *fumigation area* and on such application the *Medical Officer of Health* may grant such a certificate on such conditions stated in the certificate as he may think necessary to prevent danger from the contamination of such foodstuffs by exposure to the *fumigant* and on the grant of any such certificate the obligations of Regulation 5 (b) shall cease to apply to the *fumigation* in respect of which the certificate has been granted and the conditions stated in such certificate shall be complied with.

Provided that the *Medical Officer of Health* shall not either unreasonably refuse to grant such a certificate or impose unreasonable conditions therein.

4.—(1) No *fumigation* shall be carried out except by an adequate fumigating staff.

(2) One member of the fumigating staff shall be designated in writing as the *operator* in charge of the *fumigation*.

(3) The *operator* shall have had not less than six months regular experience of *fumigation* together with in addition twelve months regular experience of fumigating with the *fumigant* one or both of the following, namely buildings and ships, and shall be otherwise competent for the purpose.

(4) The fumigating staff shall in all cases include two persons both of whom shall be adequately trained in first aid.

5. The *fumigant* shall not be liberated until—

- (a) all persons other than the fumigating staff have left the *fumigation area* and the *risk area* and, for the purposes of paragraphs (a), (b), (c) and (d) of this Regulation, an exhaustive search has been carried out ; and
- (b) all liquids or foodstuffs of such a kind or so stored as to be liable to absorb the *fumigant* have been removed from the *fumigation area* ; and
- (c) all fires and naked lights in the *fumigation area* have been extinguished ; and
- (d) every door or other means of access to the *fumigation area* or the *risk area* has been securely fastened so as to prevent access thereto and possession has been taken of the keys ; and
- (e) notices containing, in block letters not less than two inches in height, the words " DANGER : POISON GAS : DO NOT ENTER " have been placed where they may readily be seen by any person approaching the *fumigation area* or the *risk area* ; and
- (f) all practicable steps have been taken to seal all openings, cracks or crevices so as to prevent the escape of the *fumigant* from the *fumigation area* ; and
- (g) the appropriate entries have been made in the *prescribed* register.

6. The *fumigant* shall not be applied in such a manner as to be absorbed in liquid form by floors, walls, ceilings or household effects ; nor in such quantities as to effect an average concentration exceeding 4 parts in 100 in any room or other part of the building.

7. After the liberation of the *fumigant* has commenced and until the *fumigation area* and the *risk area* are free from danger—

- (a) any member of the fumigating staff being in any part of those areas shall wear or carry ready for immediate use an efficient mask or other apparatus which affords complete protection to the wearer against the *fumigant* : and shall carry or have in his possession ready for immediate use an efficient electric torch ; and
- (b) there shall be constantly available first aid appliances and remedies, which, if any types of appliances or remedies have been *prescribed*, shall comply with the requirements and conditions of such prescription.

8. No person other than a member of the fumigating staff shall be permitted to enter the *fumigation area* after *fumigation* until—

- (a) the *fumigation area* has been ventilated in such manner and for such period, which period shall not in the case of a dwelling house be less than 24 hours, as shall be effective to secure that the area is free from danger ; and
- (b) it has been established by tests, which, if any tests have been *prescribed*, shall be the *prescribed* tests, that the area is free from danger ; and
 - (i) an entry to that effect has been made in the *prescribed* register, and
 - (ii) a certificate to that effect has been delivered or despatched to the *Medical Officer of Health* ; and

- (c) all vessels or residues of the materials used for generating the *fumigant* have been removed and safely disposed of ; and
- (d) all water contained in cisterns, tanks or otherwise in the *fumigation area* which may have become contaminated by the *fumigant* has been run off.

9. No person other than a member of the fumigating staff shall be permitted to enter the *risk area*—

- (a) while there is a high concentration of the *fumigant* in the *fumigation area*, and
- (b) until—

- (i) the *risk area* has been ventilated in such manner and for such period as shall be effective to secure that the area is free from danger, and
- (ii) it has been established by tests, which, if any tests have been *prescribed* shall be the *prescribed* tests that the area is free from danger, and an entry to that effect has been made in the *prescribed* register.

10. During the period in which the *fumigation area* is under a high concentration of the *fumigant* steps shall be taken to keep under observation the *risk area* and any buildings adjoining the *risk area* in order to ensure the discovery of any penetration of the *fumigant* into such buildings ; and, in the event of any such penetration being discovered, all steps which are reasonably practicable shall be taken to safeguard any occupants of such buildings.

11. During the period in which the *fumigation area* is under a high concentration of the *fumigant* at least one member of the fumigating staff who shall have possession of all keys of which possession has been taken in accordance with No. 5 (d) of these Regulations shall remain in attendance and thereafter until the *fumigation area* and the *risk area* have been certified to be free from danger a member of the fumigating staff shall either be in attendance or if a responsible person employed by or acting under the directions of the *undertaker* for the purpose is in attendance, shall be readily available.

12. All bedding, blankets, pillows, clothing, cushions and upholstered articles likely to absorb the *fumigant* which have been exposed to the *fumigant* shall, before the return of any occupants, either—

- (a) have been treated in such manner and for such period as shall be effective to secure that they are free from danger and have been ascertained by tests, which, if any tests have been *prescribed*, shall be the *prescribed* tests, to be so free ; or
- (b) be removed from the *fumigation area*, and shall not be restored thereto until they have been treated and tested as required in paragraph (a) of this Regulation.

13.—(1) A register or registers in the *prescribed* form in which the *prescribed* particulars shall be entered in the *prescribed* manner, shall be provided and shall, except when in use by the *operator* for the purpose of paragraph (2) (b) of this Regulation, be kept at the office of the *undertaker*.

(2) In connection with each *fumigation*—

- (a) a register as aforesaid, in which any particulars required to be entered by the *undertaker* prior to the *fumigation* shall have been entered, shall be handed to the *operator* ; and
- (b) any particulars required to be entered in such register by the *operator* shall, at the appropriate times, be entered by him.

(3) Any such register shall be preserved in good condition until a period of two years has elapsed from the date of the last entry.

14. Nothing in these Regulations shall apply to—

- (a) a *fumigation* carried out exclusively for agricultural or horticultural purposes of an agricultural or horticultural building no part of which is used for human habitation ; or
- (b) a *fumigation* carried out in any building, or part of a building, which building or part of a building has been specially constructed or adapted for the purpose of effecting the *fumigation* of any articles.

15.—(1) These Regulations may be cited as the Hydrogen Cyanide (Fumigation of Buildings) Regulations, 1938.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(3) These Regulations shall come into force on the 1st February, 1939.

* * * * *

[531]

PUERPERAL PYREXIA REGULATIONS, 1939

S. R. & O., 1939, No. 259

(100196)

March 6, 1939

Whereas the Minister of Health is empowered by section 143 of the Public Health Act, 1936, to make regulations with a view to the treatment of persons affected with any epidemic, endemic or infectious disease and for preventing the spread of such diseases, and by such regulations to apply, with or without modifications, to any disease to which the regulations relate any enactment (including any enactment in the said Act) relating to the notification of disease or to notifiable diseases ;

And whereas the Minister of Health is further empowered by section 283 of the said Act to prescribe the form of any certificate to be used for any of the purposes of the said Act ;

And whereas by the Public Health (Notification of Puerperal Fever and Puerperal Pyrexia) Regulations, 1926 and 1928, certain provision was made for the notification of cases of puerperal pyrexia :

Now therefore the Minister of Health in exercise of his powers under the said sections and of all other powers enabling him in that behalf hereby makes the following regulations :—

1.—(1) These regulations may be cited as the Puerperal Pyrexia Regulations, 1939.

(2) These regulations shall come into operation on the first day of April, 1939, and shall be enforced and executed in every district by the local authority.

(3) Every local authority shall give notice of these regulations by advertisement in a local newspaper circulating within their district and in such other manner as they think sufficient for informing persons interested, and shall also send a copy to each registered medical practitioner who after due inquiry is ascertained to be practising within their district.

(4) These regulations shall not extend to London.

2.—(1) In these regulations the expression “puerperal pyrexia” means any febrile condition occurring in a woman within 21 days after childbirth or miscarriage in which a temperature of 100.4° Fahrenheit (38° Centigrade) or more has been sustained during a period of 24 hours or has recurred during that period.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3. Sections 144 to 146 of the Public Health Act, 1936, being enactments relating to the notification of disease, shall, as modified and set out in the first schedule to these regulations, apply to puerperal pyrexia.

4. Upon the receipt of a certificate under the said section 144 a medical officer of health shall within twenty-four hours after receipt thereof send a copy of the same to the county medical officer of health.

5. The form set out in the second schedule to these regulations is hereby prescribed as the form of certificate to be used for the purposes of section 144 of the Public Health Act, 1936, as applied by this order to puerperal pyrexia.

6. The duties assigned to the medical officer of health by the Sanitary Officers (Outside London) Regulations, 1935, shall be deemed to extend to and to include all action by a medical officer of health in the execution of these regulations.

7. The Public Health (Notification of Puerperal Fever and Puerperal Pyrexia) Regulations, 1926 and 1928, are hereby rescinded except in their application to London :

Provided that the rescission of the said regulations shall not affect any right or liability acquired or incurred thereunder.

FIRST SCHEDULE

Public Health Act, 1936

Section 144.—(1) When an inmate of any building used for human habitation, not being a hospital in which persons suffering from an infectious disease are received, is suffering from puerperal pyrexia every medical practitioner attending on, or called in to visit, that inmate (in this section referred to as “the patient”) shall, as soon as he becomes aware that the patient is suffering from puerperal pyrexia, send to the medical officer of health of the district in which the building is situate a certificate in the prescribed form.

(2) Any medical practitioner who fails to send a certificate which he is required by this section to send shall be liable to a fine not exceeding forty shillings.

Section 145.—(1) A local authority shall, upon application, supply forms of certificate for use under the last preceding section free of charge to any medical practitioner practising in their district, and shall pay to a medical practitioner for each certificate duly sent by him under that section a fee of two shillings and sixpence if the case occurs in his private practice, and a fee of one shilling if the case occurs in his practice as medical officer of any public body or institution.

(2) Where the medical practitioner attending a patient is himself the medical officer of health of the district, he shall be entitled to the fee to which, if he were not the medical officer of health, he would have been entitled in respect of a certificate sent by him to the medical officer.

Section 146.—(1) Where a case of puerperal pyrexia occurs in a building in the occupation of any of His Majesty's forces, or of any person employed by or under the Admiralty, the Army Council, or the Air Council, it shall be the duty of the medical practitioner attending the patient to certify the

case to the medical officer of health of the district, if it would have been his duty so to certify it had it occurred in a building in private occupation.

(2) Unless the medical practitioner is a medical officer holding a commission in His Majesty's forces, the local authority shall pay to him for the certificate a fee of one shilling, whether the case occurs in his private practice or not.

SECOND SCHEDULE

Form of Certificate

To the Medical Officer of Health of.....

I hereby certify that....., now at.....
is, in my opinion, suffering from puerperal pyrexia as defined in these regulations* and I desire to have a bacteriological examination of the lochia.

Married or single

Age

Date of onset of disease.....

Date of birth of child.....

*I desire also—

(i) to have a second opinion on the case.

(ii) to have a bacteriological examination of blood.

(iii) that the patient be admitted to hospital.

(iv) that trained nurses be provided.

*Facilities are available for all necessary treatment.

*The case occurs in my private practice.
in my practice as medical officer of a public body or
institution.

Signed

Address.....

Dated this.....day of.....19

* * * * * [532]

MEASLES AND WHOOPING COUGH REGULATIONS, 1939

S. R. & O., 1939

(102577)

October 23, 1939

Whereas the Minister of Health is empowered by section 148 of the Public Health Act, 1936, to make regulations with a view to the treatment of persons affected with any epidemic, endemic or infectious disease and for preventing the spread of such diseases, and by such regulations to apply, with or without modifications, to any disease to which the regulations relate any enactment relating to the notification of disease or to notifiable diseases ;

And whereas measles and whooping cough are endemic and infectious diseases ;

And whereas the Minister of Health is further empowered by section 283 of the said Act to prescribe the form of any certificate to be used for any of the purposes of the said Act ;

* Strike out inappropriate clauses.

And whereas by regulations made by the Minister of Health on the dates set out in column 1 of the third schedule to these regulations provision was made for the notification of cases of the diseases specified in column 2 thereof in the districts mentioned in column 3 thereof :

Now therefore the Minister of Health hereby certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency the following regulations should come into immediate operation, and in exercise of his powers under the said sections 143 and 233 and of all other powers enabling him in that behalf hereby makes the following regulations to come into operation forthwith as provisional regulations :

1.—(1) These regulations may be cited as the Measles and Whooping Cough Regulations, 1939.

(2) These regulations shall come into operation on the date hereof, and shall be enforced and executed by the local authorities.

(3) Every local authority shall give notice of these regulations by advertisement in a local newspaper circulating within their district and in such other manner as they think sufficient for informing persons interested, and shall also send a copy to each registered medical practitioner who after due inquiry is ascertained to be practising within the district.

(4) These regulations shall not apply to London.

2. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3. Sections 144 to 146 of the Public Health Act, 1936, being enactments relating to the notification of disease, shall as modified and set out in the first schedule to these regulations apply to measles and whooping cough.

4.—(1) Upon the receipt of a certificate under these regulations or on becoming aware in any other way of a case or suspected case of measles or whooping cough in a district the medical officer of health or an officer of the local authority acting under the instructions of the medical officer of health shall make such inquiries and take such steps as are necessary or desirable for investigating the source of infection for preventing the spread of infection and for removing conditions favourable to infection :

Provided that nothing in this regulation shall be deemed to authorise the medical officer of health or other officer of a local authority to take any of the steps herein mentioned at any institution other than one belonging to a local authority except with the consent of the managers of that institution.

(2) The duties assigned to a medical officer of health by the Sanitary Officers (Outside London) Regulations, 1935, shall be deemed to extend to and to include all action by a medical officer of health in the execution of these regulations.

5. The form set out in the second schedule to these regulations is hereby prescribed as the form of certificate to be used for the purposes of these regulations.

6. The regulations made on the dates set out in column 1 of the third schedule to these regulations and providing for the notification of the diseases specified in column 2 thereof in the districts mentioned in column 3 thereof are hereby rescinded :

Provided that the rescission of the said regulations shall not affect any right or liability acquired or incurred thereunder.

FIRST SCHEDULE

Public Health Act, 1936

Section 144.—(1) When an inmate of any building used for human habitation, not being a hospital in which persons suffering from an infectious disease are received, is suffering from measles or whooping cough, every medical practitioner attending on, or called in to visit, that inmate (in this section referred to as "the patient") shall, as soon as he becomes aware that the patient is suffering from measles or whooping cough, send to the medical officer of health of the district in which the building is situate a certificate in the prescribed form.

(2) Any medical practitioner who fails to send a certificate which he is required by this section to send shall be liable to a fine not exceeding forty shillings.

Section 145.—(1) A local authority shall, upon application, supply forms of certificate for use under the last preceding section free of charge to any medical practitioner practising in their district, and shall pay to a medical practitioner for each certificate duly sent by him under that section a fee of one shilling.

(2) Where the medical practitioner attending a patient is himself the medical officer of health of the district, he shall be entitled to the fee to which, if he were not the medical officer of health, he would have been entitled in respect of a certificate sent by him to the medical officer.

Section 146.—(1) Where a case of measles or whooping cough occurs in a building in the occupation of any of His Majesty's forces, or of any person employed by or under the Admiralty, the Army Council, or the Air Council, it shall be the duty of the medical practitioner attending the patient to certify the case to the medical officer of health of the district, if it would have been his duty so to certify it had it occurred in a building in private occupation.

(2) Unless the medical practitioner is a medical officer holding a commission in His Majesty's forces, the local authority shall pay to him for the certificate a fee of one shilling, whether the case occurs in his private practice or not.

SECOND SCHEDULE

Form of Certificate

To the Medical Officer of Health of.....

I hereby certify and declare that in my opinion,(*),

an inmate of.....(†), is suffering from { measles.
whooping cough.

Age of Patient..... Sex of Patient.....

Date of onset of disease..... 19.....

If patient is inmate of a hospital, the place from which the patient was brought to the hospital

Date on which patient was so brought..... 19.....

If case occurred in private practice

If case occurred in practice as medical officer of a public body or institution, and if so, what body or institution

The following additional particulars to be given in the case of Measles

Date of first appearance of rash..... 19.....

Signed.....

Address

Dated the.....day of..... 19.....

* Insert full name.

† Insert full address.

THIRD SCHEDULE

1. Date of regulations.	2. Diseases notifiable.	3. Districts.
22nd June, 1915 ..	Whooping cough ..	St. Helens County Borough.
16th February, 1916 ..	Do.	Southport County Borough.
15th April, 1916 ..	Do.	Horsforth Urban District.
28th February, 1920 ..	Measles and whooping cough.	Bradford City.
Do.	Measles	Burnley County Borough.
3rd March, 1920 ..	Do.	Cities of Leeds and Newcastle-upon-Tyne.
13th March, 1920 ..	Do.	County Boroughs of Darlington, Derby and Middlesbrough.
19th March, 1920 ..	Measles and whooping cough.	Boroughs of Barnes and Chesterfield.
25th March, 1920 ..	Measles	Boroughs of Eccles and Yeovil.
31st March, 1920 ..	Do.	Colchester Borough.
Do.	Do.	Warrington County Borough.
Do.	Do.	Manchester City, Southport County Borough.
13th April, 1920 ..	Measles and whooping cough.	Boroughs of Bridport and Wanstead and Woodford.
14th April, 1920 ..	Do.	Cheshunt Urban District.
23rd August, 1920 ..	Measles	Boroughs of Congleton, Ilminster and Taunton.
25th August, 1920 ..	Do.	Urban Districts of Crompton and Bredbury and Romiley.
21st September, 1920 ..	Do.	Featherstone Urban District.
15th October, 1920 ..	Do.	Horwich Urban District.
15th January, 1921 ..	Measles and whooping cough.	Axbridge Rural District.
4th September, 1922	Measles	Whickham Urban District.
24th January, 1923 ..	Do.	Ashwell Rural District.
17th August, 1923 ..	Do.	Folkestone Borough.
15th December, 1923	Do.	Wakefield County Borough.
3rd May, 1924 ..	Whooping cough ..	Nuneaton Borough.
9th August, 1924 ..	Measles	Preston County Borough.
11th February, 1925 ..	Do.	Ripon City.
24th December, 1926	Whooping cough ..	Carlisle County Borough.
19th April, 1928 ..	Measles	Eccles Borough.
20th December, 1928	Do.	Glossop Borough.
17th May, 1929 ..	Measles	Wigan County Borough.
27th June, 1929 ..	Measles and whooping cough.	Darlington County Borough.
30th December, 1930	Measles	Sunderland County Borough.
25th February, 1932 ..	Do.	Crosby Borough.
15th April, 1935 ..	Do.	Sevenoaks Urban District.
20th September, 1935	Measles and whooping cough.	West Bromwich County Borough.
15th April, 1936 ..	Measles	Sevenoaks Rural District.
6th June, 1936 ..	Do.	Walthamstow Borough.
1st December, 1936 ..	Do.	Chislehurst and Sidcup Urban District.
4th August, 1938 ..	Do.	Whitstable Urban District.
29th September, 1938	Do.	Salford County Borough.
13th January, 1939 ..	Do.	Orpington Urban District.
19th September, 1939	Do.	Bletchley Urban District.
		East Barnet Urban District.
		West Ham County Borough.
		Oldham County Borough.
		Kerrier Rural District.

* * * *

[533]

MEASLES AND WHOOPING COUGH*Circular 1896**November 1, 1939*

SIR,—I am directed by the Minister of Health to forward to the Authority a copy of the Measles and Whooping Cough Regulations, 1939, which have been made as provisional regulations to come into operation forthwith and to apply to England and Wales with the exception of London. Similar regulations have been made to apply to London.

2. The Regulations provide for the notification of all cases of measles and whooping cough by medical practitioners to Medical Officers of Health. The object is to enable the Department to ascertain readily and rapidly the incidence of these diseases as it may be affected by the displacement of child population caused by the recent emergency measures and the changes that may have occurred in the geographical distribution of the infectious diseases.

3. The fee payable to a medical practitioner for each certificate under the Regulations will be one shilling.

4. Returns by Medical Officers of Health of the notifications received under the Regulations should be made to the Registrar-General weekly on the same form and in the same manner as for the notifiable diseases specified in section 343 of the Public Health Act, 1936.

5. The intention is that the Regulations shall remain in operation only so long as the special conditions created by the present emergency continue and that they shall then be revoked. All existing local regulations relating to the notification of measles and whooping cough are being revoked but the Minister will be prepared to consider the question of remaking these local regulations when the present general regulations cease to operate.

6. It is important that every local Authority should cause notice of the Regulations to be given to all medical practitioners resident or practising within their area and that steps should be taken to make the Regulations as widely known as possible.

7. Copies of this Circular and of the Regulations are being sent to the Medical Officer of Health. Additional copies of the Regulations may be purchased from His Majesty's Stationery Office or through any bookseller.

I am, Sir, etc.

[584]

**COUNTY OF LONDON (MEASLES AND WHOOPING
COUGH) AMENDMENT REGULATIONS, 1939**

P. R. & O., 1939

(102580)

October 23, 1939

The Minister of Health hereby certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency the following regulations should come into immediate operation, and in exercise of the powers conferred on him by section 143 of the Public Health Act, 1936, and of all other powers enabling him in that behalf, hereby makes the

following regulations to come into operation forthwith as provisional regulations :—

1. These regulations may be cited as the County of London Measles and Whooping Cough) Amendment Regulations, 1939, and shall be read as one with the County of London (Measles and Whooping Cough) Regulations, 1938 (hereinafter referred to as "the principal regulations").

2. The first schedule to the principal regulations shall be amended as follows :—

- (1) In subsection (1) of section 192 of the Public Health (London) Act, 1936, as modified and set out therein paragraph (a) of the proviso shall be omitted.
- (2) In subsection (6) of the said section 192 the words from "two shillings and sixpence" to the end of the subsection shall be deleted and there shall be substituted therefor the words "one shilling".

* * * * *

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MEASLES AND WHOOPING COUGH

Circular 1896A

November 1, 1939

SIR,—I am directed by the Minister of Health to forward to the Council a copy of the County of London (Measles and Whooping Cough) Amendment Regulations, 1939, amending the County of London (Measles and Whooping Cough) Regulations, 1938. The amendments effected by the new Regulations, which have been made as provisional regulations to come into operation forthwith, will bring the London Regulations into line with Regulations which have been made concurrently for the remainder of the country.

2. The principal effect of the new London Regulations is to delete the passage in the existing regulations limiting the class of cases to be notified, so that in future all cases of measles and whooping cough will be required to be notified. The object is to enable the Department to ascertain readily and rapidly the incidence of these diseases as it may be affected by the displacement of child population caused by the recent emergency measures and the changes that may have occurred in the geographical distribution of the infectious diseases.

3. The only other amendment is that the fee payable to a medical practitioner for each certificate under the Regulations will be one shilling

4. Returns by Medical Officers of Health of the notifications received under the Regulations should be made to the Registrar-General weekly on the same form and in the same manner as for the notifiable diseases specified in section 304 of the Public Health (London) Act, 1936.

5. The intention is that the new Regulations both for London and for the remainder of the country shall remain in operation only so long as the special conditions created by the present emergency continue. The Minister will then consider in consultation with the County Council and the Sanitary Authorities whether the existing provisions of the London Regulations should be restored.

6. It is important that every Sanitary Authority should cause notice of the Regulations to be given to all medical practitioners resident or practising within their area and that steps should be taken to make the Regulations as widely known as possible.

7. Copies of this Circular and of the Regulations are being sent to the Medical Officer of Health. Additional copies of the Regulations may be purchased from His Majesty's Stationery Office or through any bookseller.

I am, Sir, etc.

[586]

DISEASES OF ANIMALS

See ANIMALS.

DISINFECTION

See DISEASES.

EDUCATION

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STATUTES

THE TEACHERS SUPERANNUATION (WAR SERVICE) ACT, 1939

(2 & 3 GEO. 6, c. 95)

PRELIMINARY NOTE

This Act received the Royal Assent on 5th September, and is deemed to have come into operation at the beginning of the present period of emergency (section 13), *i.e.*, 1st September. It is not limited in duration, but the definition of "war service" in section 11 limits its application to the present emergency.

The Act amends the enactments relating to the superannuation of teachers to enable war service to be treated as service for the purposes of those Acts. A similar Act, the Elementary School Teachers (War Service Superannuation)

Act, 1914, was passed at the beginning of the last war. As pensions and gratuities to teachers are paid out of the vote of the Board of Education and not under the superannuation schemes of local authorities, they are dealt with in a separate Act from the Local Government Staffs (War Service) Act, 1939, while provision for the remuneration of teachers on war service is contained in that Act with that of other local authority officers.

The Act applies to teachers in contributory service, to "organisers" as defined by the Teachers Superannuation Act, 1925, and to students in training, who undertake war service during training or before becoming employed.

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An Act to enable war service to be treated as contributory service, approved external service or qualifying service for the purpose of the Teachers (Superannuation) Acts, 1918 to 1937, and for purposes connected therewith. [537] [5th September 1939.]

1. War service as contributory service.—Where a person employed by any employer (hereafter in this section referred to as a "former employer") as a teacher in contributory service ceases to be so employed in order to undertake war service, his period of war service shall be treated for the purposes of Part II of the principal Act as if it were a period of contributory service, and that Part of that Act shall apply accordingly, subject to the following modifications—

(a) no contributions shall be payable by or in respect of him under section nine of the said Act for any part of his period of war service, unless for that part of that period—

(i) payments are made to or in respect of him under section one of the Local Government Staffs (War Service) Act, 1939; or

(ii) payments are made by his former employer otherwise than under the said section one to supplement his war service pay; or

(iii) the amount of his war service pay is equal to or exceeds the amount of his salary as a teacher;

(b) in the application of the said section nine to any period in respect of which contributions are payable by virtue of the

foregoing paragraph, references in that section to his employer shall be construed as references to his former employer. [538]

The following expressions in this section are defined by section 11, *post* :—

“contributory service”; “war service”; “period of war service”; “principal Act”.

“Employer”, in the case of a teacher in a public elementary school maintained by or provided by the local education authority, is to be deemed to be that authority (see section 9 (3) of the Act of 1925, *ubi infra*).

The “principal Act” is the Teachers (Superannuation) Act, 1925 (7 Statutes 317). Part II (sections 2 to 19) contains the permanent provisions as to the superannuation of teachers.

By the Local Government Staffs (War Service) Act, 1939 (c. 94), section 1, local authorities are given permission to make up the salary of any officer engaged on war service to the amount he would have received if he had continued to serve in his civil capacity.

2. War service of persons training or trained as teachers.

—(1) Where any person, having been admitted or accepted for admission to a training college recognised by the Board for the purpose of payment of grant,—

(a) undertakes war service on or before completing his course of training, or after completing his course of training but before becoming employed in contributory service; and

(b) subsequently becomes employed in contributory service; his period of war service shall, subject to the provisions of this section, be treated for the purposes of Part II of the principal Act as if it were a period of contributory service. [539]

(2) No contributions shall be payable by or in respect of any such person under section nine of the principal Act for any part of his period of war service for which the amount of his war service pay is less than the amount of his salary as a teacher. [540]

(3) No part of the period of war service of any such person for which the amount of his war service pay is equal to or greater than the amount of his salary as a teacher shall be treated as a period of contributory service, unless he pays contributions of the following amount, namely—

(a) an amount equal to five per cent. of the amount of his salary as a teacher for that part of that period; plus

(b) such amount as may be determined by the Board to represent the net amount which would have been payable by his employer under paragraph (b) of subsection (1) of section nine of the principal Act if he had been employed in contributory service during that part of that period, having regard to any grants which would have been payable by the Board in respect of that amount if it had been so payable and paid. [541]

(4) For the purpose of Part II of the principal Act, any amount paid or payable under the last foregoing subsection shall be deemed—

(a) as regards so much thereof as is paid or payable by virtue of paragraph (a), to be paid or payable under paragraph (a) of subsection (1) of section nine of that Act; and

(b) as regards so much thereof as is paid or payable by virtue of paragraph (b), to be paid or payable under paragraph (b) of the said subsection (1). [542]

(5) In the case of any such person undertaking war service before completing his course of training, no part of his period of war service

falling before such date as the Board may determine to be the date on which that course would have been completed shall be treated as a period of contributory service. [543]

The following expressions in this section are defined by section 11, *post* :—
 “the Board”; “war service”; “contributory service”; “period of war service”; “principal Act”; “war service pay”.

As to Part II and section 9 of the Teachers (Superannuation) Act, 1925 (7 Statutes 317), see note to section 1, *ante*.

3. War service of persons temporarily absent from contributory service.—(1) Section two of the Teachers (Superannuation) Act, 1937 (which provides for the treatment of a period of absence from contributory service as a period of contributory service) shall not apply with respect to any person's period of war service. [544]

(2) Where a person, having discontinued his employment as a teacher in contributory service, undertakes war service before the expiration of a period the whole of which would, but for the last foregoing subsection, be treated by virtue of the said section two as a period of contributory service, then—

- (a) in a case where he continued, until he undertook war service, to be in the employment of the person by whom he was last employed as a teacher in contributory service, section one of this Act shall apply with respect to his period of war service or any part thereof as if he had ceased to be employed by that person as a teacher in contributory service in order to undertake war service; and
- (b) in any case, subsections (1) to (4) of the last foregoing section shall apply with respect to his period of war service or any part thereof as if he were such a person as is mentioned in subsection (1) of that section. [545]

The following expressions in this section are defined by section 11, *post* :—

“contributory service”; “period of war service”; “war service”.

The Teachers (Superannuation) Act, 1937, section 2 (30 Statutes 182), provides that a teacher whose employment is discontinued for a period up to five years while he is teaching in the Dominions or in a school in a foreign country approved by the Board or in an educational establishment outside the United Kingdom involving the control or supervision of teachers, may continue under the Superannuation Acts by paying ten per cent. of his salary himself.

4. War service as approved external service.—Where a person employed in approved external service of any kind ceases to be so employed in order to undertake war service, his period of war service shall be treated for the purposes of the Teachers (Superannuation) Acts, 1918 to 1937, as if it were a period of approved external service of that kind. [546]

The following expressions in this section are defined by section 11, *post* :—

“approved external service”; “war service”; “period of war service”.

As to approved external service, see section 13 of the Act of 1925 (7 Statutes 328). It is service in Scotland as a teacher, or service as an inspector of the Board or in any other capacity as a civil servant approved by the Treasury, or service in a university or university college in England or Wales or Scotland or such other service in places of education as the Board may prescribe.

5. War service as qualifying service.—Any person whose period of war service or any part thereof is not required by this Act to be otherwise treated may require that his period of war service or that

part thereof shall be treated for the purposes of the Teachers (Superannuation) Acts, 1918 to 1937, as if it were a period of qualifying service. [547]

The expression "period of war service" is defined by section 11, *post*.

"Qualifying service", by section 18 of the Act of 1925 (7 Statutes 334), is any employment, whether in the capacity of a teacher or otherwise, which the Treasury on the recommendation of the Board may declare to be qualifying service for the purpose of calculating the period qualifying for a superannuation allowance.

6. Reckoning of salary during war service.—Where by virtue of this Act any person's period of war service or any part thereof is treated as if it were a period of contributory service or approved external service, the amount of his salary as a teacher during that period or that part thereof shall, for the purposes of this Act and of Part II of the principal Act, be taken to be such amount as would, in the opinion of the Board, have been taken to be the amount of his salary under Part II of the principal Act if he had been employed in contributory service or approved external service, as the case may be, during that period or that part thereof. [548]

The following expressions in this section are defined by section 11, *post* :—

"period of war service"; "contributory service"; "approved external service"; "principal Act"; "the Board".

As to approved external service, see note to section 4, *ante*.

7. Provision as to persons called out or under training.—

(1) The provisions of Article 11 of the Reserve and Auxiliary Forces (Consequential Provisions) Order, 1939, shall not apply with respect to any part of any person's period of service as a person called out which falls during the period of the present emergency. [549]

(2) The provisions of Article 5 of the Military Training (Consequential Provisions) Order, 1939, shall not apply with respect to any part of any person's period of training which falls within the period of the present emergency. [550]

(3) Where any person—

(a) at the beginning of the period of the present emergency is serving as a person called out or is a person under training ; and

(b) immediately before he was called out or immediately before the beginning of his period of training, as the case may be, was employed in contributory service as a teacher or in approved external service ;

he shall be deemed for the purposes of this Act to have ceased to be so employed immediately after the beginning of the period of the present emergency in order to undertake war service. [551]

(4) In this section the expression "called out" has the same meaning as in the Reserve and Auxiliary Forces (Consequential Provisions) Order, 1939, and the expressions "person under training" and "period of training" have respectively the same meanings as in the Military Training (Consequential Provisions) Order, 1939. [552]

The following expressions in this section are defined by section 11, *post* :—

"period of the present emergency"; "contributory service"; "war service".
By Article 31 of the Reserve and Auxiliary Forces (Consequential Provisions) Order, 1939, dated 23rd June, S.R. & O. 1939 No. 719, "called out" means called out for service under the Reserve and Auxiliary Forces Act, 1939.

"Person under training": "period of training".—These expressions are defined by the Military Training (Consequential Provisions) Order, 1939, dated 23rd June, S.R. & O. 1939 No. 718, as follows ("the Act" being the Military Training Act, 1939):—

"person under training" means—

- (a) a person who, by virtue of subsection (1) of section six of the Act, is deemed to have been called out for a special course of training under subsection (2) of section thirty of the Territorial and Reserve Forces Act, 1907;
- (b) any person exempted by subsection (3) of section two of the Act from liability to be called up for military training thereunder, who has, on or after the twenty-seventh day of April, nineteen hundred and thirty-nine, been called up for training for a continuous period of six months or more as a member of one of the reserve and auxiliary forces mentioned in that subsection;
- (c) a person who has been ordered to undergo a continuous period of six months' training of a civil character and under civilian control for work of national importance provided or approved under sub-section (8) of section three of the Act;

"period of training" means, in relation to a person who is or has been a person under training, the period for which he undergoes or has undergone the training referred to in paragraph (a), paragraph (b) or paragraph (c), as the case may be, of the foregoing definition".

8. Application to organisers.—This Act shall apply to a person employed as an organiser, and treated by virtue of subsection (1) of section fourteen of the principal Act as if he were a teacher employed in contributory service, as it applies to such a teacher, and accordingly in this Act—

- (a) any reference to a teacher shall be construed as including a reference to an organiser; and
- (b) any reference to contributory service shall be construed as including a reference to service as an organiser which, by virtue of the said subsection (1), is treated as contributory service. [553]

"Contributory service" is defined by section 11, *post*.

By section 14 of the Teachers (Superannuation) Act, 1925 (7 Statutes 331), an "organiser" must satisfy the Board that he is or has been employed by a local education authority in full-time service which to a substantial extent involves the control or supervision of teachers and before that he was engaged for not less than three years, whether in England or Wales or elsewhere, as a teacher in a capacity approved by the Board.

9. Application to schemes.—The foregoing provisions of this Act shall have effect for the purposes of a scheme made under paragraph (a) of subsection (1) of section twenty-one of the principal Act, subject to the following modifications:—

- (a) for references to contributory service there shall be substituted references to contributory service under the scheme;
- (b) for references to Part II of the principal Act and for the reference to the Teachers (Superannuation) Acts, 1918 to 1937, there shall be substituted references to the said Part II, or to those Acts, as applied by the scheme. [554]

The following expressions in this section are defined by section 11, *post*:—

"contributory service"; "principal Act".

Schemes under section 21 of the Teachers (Superannuation) Act, 1925 (7 Statutes 335), are made to apply the Superannuation Acts to teachers in schools which are not grant-aided, to teachers in Government Departments or to teachers in the Dominions.

10. Expenses.—Any expenses incurred by the Board of Education for the purposes of this Act shall be defrayed out of moneys provided by Parliament. [555]

11. Interpretation.—In this Act the following expressions have the meanings hereby respectively assigned to them:—

- "approved external service" has the same meaning as in section thirteen of the principal Act ;
- "the Board" means the Board of Education ;
- "contributory service," except as otherwise provided by this Act, has the meaning assigned to it by paragraph (b) of subsection (1) of section two of the principal Act ;
- "period of the present emergency" means the period beginning with the first day of September nineteen hundred and thirty-nine and ending with such date as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of this Act came to an end ;
- "period of war service," in relation to any person, includes any period not exceeding twelve months, or any periods not exceeding twelve months in all, during which he, though not actually engaged in war service, is as a result of war service prevented or hindered from procuring work as a teacher owing to injury, illness or any other cause ;
- "principal Act" means the Teachers (Superannuation) Act, 1925, as amended by any subsequent enactment ;
- "war service" means service, during the period of the present emergency, in any of the naval, military or air forces of the Crown, or any service during that period which the Board consider may properly be treated for the purpose of this Act in the same manner as service in those forces ;
- "war service pay", in relation to a person engaged in war service, means his pay (including marriage, family and other similar allowances) in respect of his war service. [556]

For section 13 of the Teachers (Superannuation) Act, 1925, see 7 Statutes 328. For a summary of the definition see notes to section 4, *ante*.

For section 2 (1) (b) of the Teachers (Superannuation) Act, 1925, see 7 Statutes 319. Very briefly, it means full-time service since 1st April, 1926, as a teacher of a special subject in a public elementary school, as a certificated teacher in a certified approved school or certified school for blind, etc., children, as a teacher in a certified mental institution or any other grant-aided school, as a certificated teacher in a service recorded under the Elementary School Teachers (Superannuation) Act, 1898, before April, 1919, as a teacher in a school approved by the Treasury not conducted for private profit, etc., as a teacher of a prescribed kind in a grant-aided nursery school or as a teacher in grant-aided service, otherwise than in a school under a local education authority. See Halsbury's Laws of England, 2nd Edition, Vol. 12, p. 157, for other service which may be deemed to be contributory service, *ante*.

12. Provision as respects Northern Ireland.—Notwithstanding anything in the Government of Ireland Act, 1920, the Parliament of Northern Ireland shall have power to make laws, in respect of matters exclusively relating to the portion of Ireland within their jurisdiction and any part thereof, for purposes similar to the purposes of this Act. [557]

13. Short title, construction, citation, commencement and extent.—(1) This Act may be cited as the Teachers Superannuation (War Service) Act, 1939, and shall be construed as one with the principal Act.

(2) This Act and the Teachers (Superannuation) Acts, 1918 to 1937, may be cited together as the Teachers (Superannuation) Acts, 1918 to 1939.

(3) This Act shall be deemed to have come into operation at the beginning of the period of the present emergency.

(4) No provision of this Act shall extend to Scotland, and no provision of this Act, except the provisions of the last foregoing section, shall extend to Northern Ireland. [558]

The Teachers (Superannuation) Acts, 1918 to 1937, are the School Teachers (Superannuation) Act, 1918 (7 Statutes 303); the School Teachers (Superannuation) Act, 1922 (*ibid.*, 314); the School Teachers (Superannuation) Act, 1924 (*ibid.*, 316); the Teachers (Superannuation) Act, 1925 (*ibid.*, 317); the Teachers (Superannuation) Act, 1935 (28 Statutes 49); and the Teachers (Superannuation) Act, 1937 (30 Statutes 180).

THE EDUCATION (EMERGENCY) ACT, 1939

(2 & 3 GEO. 6, c. 111)

An Act to modify the provisions of the Education Act, 1936, in relation to the coming into operation of sections one to six of that Act, and for purposes connected with the said modification. [559]

[12th October 1939.]

1. Suspension of operation of ss. 1 to 6 of Education Act, 1936.—(1) Sections one to six of the Education Act, 1936 (which provide, subject to certain exceptions, for the raising of the compulsory school age to fifteen, and for matters connected therewith) shall, notwithstanding the provisions of subsection (2) of section sixteen of that Act, be deemed not to have come into operation on the first day of September nineteen hundred and thirty-nine, but shall come into operation upon such date after the commencement of this Act as the Board of Education may by order determine; and accordingly—

(a) the said sections one to six and subsection (2) of the said section sixteen shall have effect, and shall be deemed always to have had effect, as if for any reference therein to the appointed day there were substituted a reference to such date as may be so determined; and

(b) subsection (4) of section one of the said Act shall have effect as if for the reference therein to the first day of September nineteen hundred and twenty-five there were substituted a reference to the date of which the date determined as aforesaid is the fourteenth anniversary. [560]

Sections 1-6 of the Education Act, 1936 (29 Statutes 117), raised the compulsory school age to 15. They also contained detailed provisions with respect to the granting of employment certificates to those over 14 who were thereby exempt from attending school, and provided that in certain cases certificates should cease to have effect. Sections 18 and 22 of the Children and Young Persons Act, 1933 (26 Statutes 181), which deal with the employment of children, and their taking part in entertainments, were also by section 6 of the 1936 Act applied to the new school-leaving age.

By section 16 (2) of the 1936 Act, sections 1-6 of that Act were not to come into force until the first day of September, 1939.

Section 1 (4) of the 1936 Act provided that the raising of the age to 15 should not apply in the case of a child born on or before 1st September, 1925, and that such children should be governed by the Education Act, 1921 (7 Statutes 130). The effect of paragraph (b) of section 1 (1) of the present Act is to exempt from the provisions of the 1936 Act those children who were born 14 years or more before the date which the Board of Education appoint for the coming into operation of the suspended sections 1-6 of the 1936 Act.

(2) Any byelaw made under Part IV of the Education Act, 1921, which was sanctioned by the Board of Education on or after the first day of September nineteen hundred and thirty-nine and before the commencement of this Act, or which came into operation on or after the said day and before the commencement of this Act, shall be deemed never to have been made. [561]

(3) Any liability incurred before the commencement of this Act by a local education authority, being a liability which would have been lawfully incurred if this Act had not been passed, shall, notwithstanding anything in this section, be deemed to have been lawfully incurred.

[562]

Under Part IV of the Education Act, 1921 (7 Statutes 153), the duty was imposed on local education authorities to make and enforce byelaws for school attendance. These byelaws have to be sanctioned by the Board before they come into operation. By section 1 (3) of the Education Act, 1936, byelaws in force on 1st September, 1939, which was the "appointed day" for the purposes of that Act, and which required parents of children to require them to attend school up to any age less than fifteen, were to have effect as if for that age there were substituted the age of fifteen. This provision, by virtue of subsection (1), *supra*, is deemed not to have come into operation and such byelaws are therefore not amended by Statute until an order bringing section 1 of the Act of 1936 into effect is made. The present subsection provides for the case of new byelaws made between 1st September and 12th October, 1939.

Sections 1-6 of the Act of 1936 were in fact in force from 1st September, 1939, until the passing of the present Act on 12th October, 1939. If they had been repealed in the normal way there would have been no need for section 1 (3) above, because the repeal of an Act does not affect its previous operation or anything duly done under it: see the Interpretation Act, 1889, section 38 (2) (b) (28 Statutes 1005). But as by section 1 (1) of the present Act they are deemed not to have come into operation at all, a clause was necessary to validate preparations made in anticipation, such as the extension of school premises and the engagement of extra staff.

See the Elementary Education Grant Provisional Regulations, 1939, dated 11th November, 1939, made by the Board of Education, paragraph 6 (2).

2. Short title and citation.—This Act may be cited as the Education (Emergency) Act, 1939, and this Act and the Education Acts, 1921 to 1937, may be cited together as the Education Acts, 1921 to 1939. [563]

For the Education Act, 1921, see 7 Statutes 130, and for the Act of 1936, see 29 Statutes 117.

ORDERS, CIRCULARS AND MEMORANDA DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1939, No. 927, as amended

* * * * *

23A. Power of local education authority to provide air-raid shelter in non-provided public elementary schools.—(1) A local education authority for the purposes of elementary education shall be deemed to have power under the Education Act, 1921, to provide air-raid shelter in connection with a public elementary school maintained but not provided by them, notwithstanding that the provision of the shelter involves any such alterations or improvements in the buildings of the school as are referred to in paragraph (d) of subsection (2) of section twenty-nine of that Act.

(2) Any additional land required in the case of any such school as aforesaid for the provision of air-raid shelter by the local education authority may be provided, either by the managers or by the authority and, if provided by the authority, shall not be deemed to form part of the schoolhouse for the purposes of the Education Act, 1921.

(3) This Regulation shall not authorise a local authority to provide any shelter in connection with any such school as aforesaid otherwise

than with the consent of the managers, unless the shelter is provided on land provided by the authority.

(4) In this Regulation, the expression "air-raid shelter" has the same meaning as in the Civil Defence Act, 1939. [564]

This regulation was added by S. R. & O., 1939, No. 1682.

The local education authority for the purpose of elementary education is defined by s. 3 of the Education Act, 1921, as amended by s. 1 of the Education (Local Authorities) Act, 1931 (7 Statutes 131 and 24 *ibid.* 173).

Section 29 (2) (d) of the Act relates to the provision, maintenance, etc., by managers of non-provided schools, of schoolhouse, and making alterations, etc., reasonably required by the local authority.

Schoolhouse is defined by s. 170 (6) of the Education Act, 1921 (7 Statutes 213), as follows:—

"The expression 'schoolhouse' in relation to an elementary school includes a teacher's dwelling-house and the playground (if any) and the offices and all premises belonging to or required for a school".

For definition of "air-raid shelter", see s. 90 (1) of the Civil Defence Act, 1939.

* * * * *

EDUCATION CODE AMENDING REGULATIONS

No. 1, 1939

S. R. & O., 1939, No. 237

February 28, 1939

1. The existing Regulations hereby amended are the Regulations for Public Elementary Schools contained in the Education Code, 1926.

2. The following paragraph is added to Article 21 of the existing Regulations, and shall have effect with respect to meetings held on or after the 1st day of June, 1938:—

"(d) The absence of a child from not more than ten meetings in any school year may, if occasioned by the annual holiday of a parent, be recognised and treated as attendances."

3. These Regulations may be cited as the Education Code Amending Regulations No. 1, 1939. [565]

ELEMENTARY EDUCATION GRANT REGULATIONS, 1939

S. R. & O., 1939, No. 618

June 6, 1939

Grant payable to Authorities

1. The grant payable by the Board to Local Education Authorities in aid of Elementary Education is payable, subject to the conditions of these Regulations, for each financial year.

2. The grant payable for a year to each Authority (exclusive of any addition under Article 4) will be based upon the average attendance, the Authority's expenditure, and the product of a rate respectively for that year, according to the following formula:—

Thirty-six shillings for each unit of average attendance in Public Elementary Schools maintained by the Authority, with the addition of—

(a) Three-fifths of the net expenditure on the salaries of teachers in those Schools;

(b) Two-fifths of the net expenditure under Section 88 (1) of the Act in respect of vehicles or travelling expenses for children attending those Schools;

- (c) One-half of the net expenditure specified in Article 3 as ranking for aid to that extent; and
- (d) One-fifth of the remaining net expenditure; less the product of a sevenpenny rate in the Authority's area.

3.—(1) The net expenditure ranking for aid to the extent of one-half under Article 2 is as follows :—

- (i) Expenditure on special services, that is to say—
 - (a) School Medical Service,
 - (b) Provision of Meals,
 - (c) Special Schools for blind, deaf, defective or epileptic children,
 - (d) Organisation of physical training in Public Elementary Schools,
 - (e) Play Centres, and
 - (f) Nursery Schools.
- (ii) Expenditure on maintenance allowances provided under Section 24 of the Act.
- (iii) Expenditure on the service of loans to meet outlay on educational reorganisation or development which the Board recognise as falling under one of the following heads :—
 - (a) Outlay to which the Authority became committed within the period from the beginning of September, 1929, to the 4th September, 1931, inclusive,
 - (b) Outlay in respect of grants for non-provided Schools under the Education Act, 1936,
 - (c) Outlay to which the Authority have become committed not earlier than the beginning of January, 1936, for carrying out proposals which are finally approved by the Board within the prescribed period.
- (iv) Any expenditure to meet such outlay as aforesaid which the Board specially recognise for the purposes of this subparagraph as expenditure properly incurred out of revenue.

(2) The said prescribed period extends to the end of December, 1940, but may be further extended by the Board, in cases where they are satisfied that the particular circumstances justify it, until not later than the end of December, 1943.

4. For the year 1939-40 an additional grant or additional grants will be payable to the Authority in certain cases as follows :—

- (i) Where the Authority received an additional fixed grant for the year 1935-6 under Article 4 of the Elementary Education Grant Regulations, 1932, as applied to that year, the Board will pay an additional grant ascertained from the amount of the said fixed grant by adding the product of a sevenpenny rate for the said year and subtracting the product for the year 1939-40.
- (ii) Where the product of a sevenpenny rate for the year 1939-40 falls short of the prescribed basic sum calculated for the year 1933-4 under the said Article 4, the Board will pay an additional grant equal to the amount of the deficiency.

Ascertainment of Expenditure

5.—(1) In the case of each Authority the Board will ascertain net expenditure from the Elementary Education Revenue Account prescribed by the Education Accounts (Annual Statements) Order, 1921.

(2) From the expenditure shown in the Revenue Account the Board will exclude—

- (i) expenditure which in the opinion of the Board is attributable to a service in respect of which payments are made by a Government Department other than the Board ;
- (ii) payments to another Authority in respect of children for whom the paying Authority are responsible ; and
- (iii) any other expenditure not recognised by the Board as expenditure in aid of which parliamentary grants should be made to the Authority.

(3) After excluding the expenditure aforesaid and classifying the remaining expenditure in accordance with the classification required by the formula in Article 2, the Board will deduct from the expenditure of each class all receipts relating thereto, except—

- (i) receipts in respect of rates raised by the Authority, Crown contributions in lieu of rates, and grants from the Board, and
- (ii) payments from another Authority in respect of children for whom that Authority are responsible ;

and the net expenditure thus ascertained will be the net expenditure of the Authority for the purposes of these Regulations.

Conditions of Grant

6.—(1) The grant is conditional upon the Board being satisfied that the Authority—

- (i) have performed their duties under the Act ;
- (ii) have complied with the requirements, so far as applicable, of the Regulations of the Board relating to elementary education, including these Regulations ; and
- (iii) have supplied punctually such information and returns as the Board require ;

and if the Board are not satisfied on any of these matters they may withhold or make a deduction from the grant.

(2) Without prejudice to any other powers, the Board may reduce the amount of any additional grant under Article 4 if they are not satisfied that the Authority have observed due economy having regard to the circumstances of the area and the standard of expenditure in areas not receiving additional grant.

7.—(1) The payment of the grant in full is conditional upon the Board being satisfied that the salaries of teachers are such that no occasion arises for a deduction from the grant as in this Article provided.

(2) If any scales of salary in Schools provided or maintained by an Authority are less than the recognised scales where such scales are applicable, and if in the opinion of the Board the efficiency of the provision made for elementary education for the area is thereby endangered, the Board may make such deduction from the grant as will in their opinion secure that the expenditure by the Authority falling to be met from the rates shall not be less than such expenditure would have been if the scales of salary in question had been in accordance with the recognised scales.

(3) For the purposes of this Article the recognised scales are those laid down in the Report dated the 14th October, 1938, of the Burnham Committee on Scales of Salaries for Teachers in Public Elementary

Schools and in the Appendices thereto, subject to any subsequent modifications agreed by the Committee and approved by the Board.

8.—(1) The payment of grant in respect of maintenance allowances provided by an Authority under Section 24 of the Act is subject to the following conditions :—

- (i) The arrangements of the Authority with regard to maintenance allowances and estimates of the cost must be submitted at such times as the Board may require and must be approved by them; and the Board will not recognise allowances provided otherwise than in accordance with arrangements so approved.
- (ii) The allowances must be for pupils who are prepared to continue their education for a definite period of suitable length at an organised and progressive course of instruction, and the pupils must be in need of assistance for that purpose.
- (iii) Subject as hereinafter provided, a pupil must have attained, at the beginning of the first school term for which an allowance is payable to him under the approved arrangements, the school leaving age then in force in the Authority's area, that is to say, the age up to which parents are required (subject to any provisions for exemption in force in the area) to cause their children to attend school.

(2) Where the Authority had, before the passing of the Education Act, 1936, made a bylaw raising the school leaving age to fifteen and obtained the Board's approval to the provision of allowances from a lower age, that lower age shall, unless the approval is withdrawn, be substituted for the school leaving age in the application of this Article to allowances which have become payable under the approved arrangements before the 1st September, 1939.

(3) Where the Authority had, before the 25th January, 1937, become committed to the future provision of an allowance for an individual pupil, and the school leaving age has been raised to fifteen before the allowance has become payable under the approved arrangements, the Board may recognise the allowance as if the school leaving age had not been so raised.

Provisions as to Payment

9.—(1) A sum estimated to amount to ninety per cent. of the grant payable for the year will, subject to the provision by Parliament of the necessary moneys, be payable by monthly instalments on accounts during the year.

(2) After the end of the year such further instalments as the Board think fit, based on the returns required by them for the purpose, may be paid before final adjustment.

(3) The inclusion by the Board of expenditure for the purpose of calculating any instalments of the grant will not commit the Board to the recognition of such expenditure for the purposes of these Regulations.

(4) The balance of the grant will be paid after the audited accounts for the year and any other returns required by the Board for the purpose have been received and examined.

(5) The grant will be calculated to the nearest pound, a fraction of a pound in the final result being ignored or reckoned as a pound according as it is, or is not, less than ten shillings.

Definitions and Supplemental Provisions

10.—(1) In these Regulations unless the context otherwise requires—
 “The Act” means the Education Act, 1921, as amended by any subsequent enactment.

“The Board” means the Board of Education.

“Authority” means Local Education Authority for Elementary Education.

“The grant” means the grant payable to an Authority under these Regulations, including additional grant under the provisions, if applicable, of Article 4.

“Public Elementary School” does not include any Special School for blind, deaf, defective or epileptic children.

“Year” or “financial year” means year beginning on the 1st April.

References to other Regulations of the Board shall be construed as references to the Regulations in force from time to time.

(2) Average attendance will be computed in accordance with the Board's Regulations for Public Elementary Schools.

(3) Expenditure on salaries will be reckoned in money payments only, exclusive of the value of other forms of emolument, and without deduction of contributions under Section 9 of the Teachers (Superannuation) Act, 1925. Any amount paid by an Authority by way of employers' contributions under that Section will be treated as if it were expenditure on the salaries of the teachers in respect of whom the contributions are paid.

(4) The product of a rate in an Authority's area will be ascertained for any year from the product of a penny rate in each rating area, as determined for the purposes of Section 9 of the Rating and Valuation Act, 1925, or in London as certified by the District Auditor.

11. If any question arises as to the interpretation of these Regulations, or as to whether any of the requirements thereof are fulfilled, or as to the amount of any grant payable thereunder, or as to the inclusion or exclusion of any items of receipt or expenditure for the purpose of calculating grant, the decision of the Board shall be final.

12.—(1) These Regulations shall have effect in substitution, as from the 1st day of April, 1939, for previous Regulations of the Board providing for the payment of Grant to Authorities in aid of Elementary Education, but shall not affect the operation of such previous Regulations in relation to periods prior to that date.

(2) These Regulations may be cited as the Elementary Education Grant Regulations, 1939.

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[566]

SPECIAL SCHOOLS BOARDING-OUT REGULATIONS, 1939

S. R. & O., 1939, No. 776

July 5, 1939

1. These Regulations relate to the boarding-out of blind, deaf or defective children by Local Education Authorities in homes conveniently near to Special Schools certified under Part V of the Education Act, 1921; and unless the context otherwise requires—

"The Board" means the Board of Education ;

"The responsible Authority" means the Local Education Authority responsible for making provision for the education of the child concerned ;

"Foster-parent" means a person with whom a child is boarded out ;

"Visitor" means a person appointed as hereinafter provided to visit a child on behalf of the responsible Authority ;

"Inspector" means one of His Majesty's Inspectors or any person employed by the Board for the purpose of inspection.

2. A child shall not be boarded-out without the consent of his parent.

3.—(a) A blind child and a deaf child, or more than two blind children, or more than two deaf children, or more than three defective children shall not be boarded out in the same home at the same time without the previous approval of the Board.

(b) A child shall not be boarded-out in a home in which more than four children are already resident without the previous approval of the Board.

(c) A foster-parent shall not become or continue to be a party to any contract for the purpose of insuring the payment to him for his own benefit of a sum of money upon the illness or death of a child boarded-out with him.

4. Before a child is boarded-out a duly qualified medical practitioner shall examine him and certify to the following effect :—

Having this day personally examined A.B. aged.....years residing at I certify that he is not suffering from any contagious or infectious disease and that his bodily health is good with the exception that.....

5.—(a) Before receiving a child the foster-parent shall enter into a written undertaking with the responsible authority in consideration of a weekly sum—

- (i) To bring up the child as one of his own children ;
- (ii) To provide him with proper food, lodging and washing ;
- (iii) To take care that he attends the Special School directed by the responsible Authority, making any necessary provision for his escort ;
- (iv) To afford facilities for the child to attend religious services agreeable to the wishes of his parent ;
- (v) To provide for the repair and renewal of his clothing ;
- (vi) In case of illness forthwith to report the same to the responsible Authority and to the child's parent ;
- (vii) At all reasonable times to permit the child to be visited by his parent ;
- (viii) At all times to permit him to be visited and the house to be inspected by a Visitor or by an Inspector ;
- (ix) To give up possession of the child on the demand of his parent or of the responsible Authority.

Copies of the undertaking shall be retained by the foster-parent and by the parent of the child.

(b) The foster-parent shall give an acknowledgment of the receipt of the child and of the articles of clothing delivered for the child's use.

6.—(a) Visitors may be appointed either by the responsible Authority or on their behalf by another Local Education Authority or the Managers of the Special School or a body approved for the purpose by the Board.

(b) A Visitor shall visit the child at the home during the first month and subsequently at least once a quarter and make a written report mentioning the apparent condition and the behaviour of the child, the state of the home, and any reasonable complaints made by the child or the foster-parent. These reports shall be forwarded to the responsible Authority.

(c) The responsible Authority shall obtain from the Managers of the Special School once a term a written report upon the appearance, conduct and progress of the child, his absence (if any) from School and the alleged causes of absence.

7.—(a) The Board's Regulations of the 15th September, 1920, as to boarding-out blind, deaf and defective children are hereby repealed.

(b) These Regulations shall have effect from the 1st day of October, 1939.

(c) These Regulations may be cited as the Special Schools Boarding-out Regulations, 1939.

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[567]

HIGHER EDUCATION GRANT AMENDING REGULATIONS NO. 3, 1939

S. R. & O., 1939, No. 903

August 10, 1939

1. The existing Regulations hereby amended are the Higher Education Grant Regulations, 1933, as amended by Amending Regulations No. 1, 1934, and No. 2, 1935.

2. In paragraph (2) of Article 5 of the existing Regulations (which specifies under four heads certain expenditure which is to be excluded for the purpose of calculating grant) the following is substituted for head (ii) of the expenditure to be excluded :—

“(ii) expenditure in respect of Schools which are in receipt of direct grant from the Board and are not provided by Authorities, but so that expenditure on air-raid precautions shall not be excluded by reason of being in respect of such Schools ”;

3. These Regulations may be cited as the Higher Education Grant Amending Regulations No. 3, 1939.

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[568]

TRAINING OF TEACHERS AMENDING REGULATIONS NO. 4, 1939

S. R. & O., 1939, No. 904

August 10, 1939

1. The existing Regulations hereby amended are the Regulations for the Training of Teachers, 1934, as amended by the Training of Teachers Amending Regulations No. 1, 1935, No. 2, 1936, and No. 3, 1937.

2. After Article 23* of the existing Regulations the following Article is inserted :—

“ 23.** In the case of any non-provided Training College other than a Training Department by a University or University College, the Board may pay an additional grant to the Governing Body not exceeding one half of any approved expenditure incurred by them on air-raid precautions ”.

3. These Regulations may be cited as the Training of Teachers Amending Regulations No. 4, 1939.

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[569]

CASES

Non-provided School — Repair — Liability — Managers — Public Authority—Public Authorities Protection Act, 1893 (c. 61), s. 1—Education Act, 1921 (c. 51), ss. 29–35.

Plaintiff's son was, at the material time, a pupil of a non-provided school. The female plaintiff was invited to attend an exhibition of the pupils' work. The invitation was issued by the headmaster, and was issued with the authority of the managers of the school. The female plaintiff attended, and was injured through the collapse of a floor, due to want of repair. In an action for damages in respect of the injuries received, it was contended that the managers of the school were in occupation only as agents of the general committee of the Liverpool Church of England Schools Society, and also that, in holding the gathering in question, the managers were not acting in pursuance of any public duty, or in execution of any Act of Parliament, but were performing a purely voluntary act :—

Held : (i) the school was provided by the managers, who were carrying out the functions of managers under the Education Act, 1921 ;

(ii) in holding the gathering at which the accident happened, the managers were performing part of their functions as managers of the school ;

(iii) the managers were entitled to the protection of the Public Authorities Protection Act, 1893 ;

(iv) by the Education Act, 1902, the powers of management of the school were taken from the general committee of the Liverpool Church of England Schools Society, and placed in the hands of the managers, and, therefore, the general committee could not be responsible for what had happened.—*GRIFFITHS v. ST. CLEMENT'S SCHOOL, LIVERPOOL, MANAGERS AND TRUSTEES OF LIVERPOOL CHURCH OF ENGLAND SCHOOLS SOCIETY*, [1939] 2 All E. R. 76 ; *sub nom. GRIFFITHS v. SMITH*, 103 J. P. 163 ; 55 T. L. R. 630 ; 83 Sol. Jo. 296 ; 37 L. G. R. 487 ; Digest Supp., C. A. [570]

ELECTIONS

STATUTES :—	PAGE	CASES :—	PAGE
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STATUTES

THE LOCAL ELECTIONS AND REGISTER OF ELECTORS (TEMPORARY PROVISIONS) ACT, 1939

(2 & 3 GEO. 6, c. 115)

PRELIMINARY NOTE

This emergency Act postpones the elections of local authorities and the preparation of registers of electors and jurors books, and suspends certain powers relating to the alteration of the areas or of the constitution of local authorities. The postponement of the preparation of registers of electors and jurors books is deemed to have come into force on 3rd September, 1939, and the rest of the Act comes into operation on the date of its passing, 31st October, 1939. The whole Act, subject to a minor qualification in section 10 (2), is to expire on the 31st day of December, 1940.

In the case of elections necessarily occasioned by casual vacancies, local councils are given power, where necessary, to elect persons otherwise qualified to fill the vacancy. This applies also to common councilmen of the City of London.

Registers of electors prepared in 1938 remain in force until 15th November, 1939. The register of electors to be prepared in 1939 may be published at any time not later than 15th November, 1939, and is to come into force on that date and remain in force until 15th October, 1941.

The jurors book for the county for the year beginning with 1st January, 1940, will be the jurors book for the year beginning with 1st January, 1941.

The Act also provides for the alteration without election of an urban or rural district council into a borough council by continuing the councillors of the districts in office except for such elections of new councillors as become necessary as a result of the grant of the charter, in which case the election is by the councillors.

Elections of aldermen in the case of casual vacancies and in the case of incorporation of a district as a borough are to be carried out in like manner as if the Act had not been passed. Section 6 postpones the operation of certain Orders and Orders in Council altering the areas and constitutions of local authorities.

ARRANGEMENT OF SECTIONS

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An Act to postpone elections of local authorities, to postpone the preparation of the register of electors, to suspend certain powers relating to the alteration of the areas or of the constitution of local authorities, and for the purposes connected with the matters aforesaid. [571]

[31st October 1939.]

1. Postponement of local elections and extension of term of office of existing councillors and others.—While this Act is in force, no local election shall be held and any alderman, councillor or elective auditor in office at the commencement of this Act shall continue in office :

Provided that the foregoing provisions shall not prevent the vacation of the office of an alderman, councillor or elective auditor otherwise than by effluxion of time ; and in the event of any such office being vacant while this Act is in force, a person to fill the vacancy shall be elected as soon as conveniently may be—

- (a) in the case of an alderman, in like manner as if this Act had not been passed ;
- (b) in the case of a councillor, by the council among the members of which the vacancy has so occurred, and
- (c) in the case of an elective auditor, by the council of the borough ;

so, however, that no person shall be so elected to fill any such vacancy if he does not possess the qualifications which, by virtue of any enactment or rule of law, are necessary for holding the office in which the vacancy has occurred, or if he is subject to any disqualification for holding that office. [572]

For definitions of “ local election ”, “ alderman ”, “ councillor ”, and “ elective auditor ”, see section 7, *post*.

As to vacation of the office . . . otherwise than by the effluxion of time, *e.g.*, by failure to make declaration of acceptance of office, or to attend meetings, resignation, death, or supervening disqualification, see Halsbury's Laws of England, 2nd Edition, Vol. 21, title LOCAL GOVERNMENT, pp. 54 to 60 (county aldermen and county councillors), pp. 131, 132 (borough aldermen and borough councillors), p. 155 (district councillors), pp. 178, 179 (parish councillors), pp. 150, 151 (elective auditors) ; Local Government Act, 1933, (sections 57 to 68) (26 Statutes 333 to 343).

It will be observed that section 67 of the Local Government Act, 1933, which deals with the filling of casual vacancies in the case of councillors, is by implication suspended so long as the present Act is in force. That part of section 238 (4) of the Local Government Act, 1933, which deals with the filling of casual vacancies among elective auditors is impliedly suspended for the same reason.

2. Postponement of preparation of registers of electors and jurors books.—(1) The register of electors prepared, under section eleven of the Representation of the People Act, 1918, in the year nineteen hundred and thirty-eight, shall remain in force until the fifteenth day of November nineteen hundred and thirty-nine.

[573]

(2) Notwithstanding anything in the Representation of the People Act, 1918, as amended by any other enactment, the register

of electors to be prepared under section eleven of the said Act in the year nineteen hundred and thirty-nine may be published at any time not later than the fifteenth day of November nineteen hundred and thirty-nine. [574]

(8) The register so published shall come into force on the fifteenth day of November nineteen hundred and thirty-nine, and shall remain in force until the fifteenth day of October next following the expiry of this Act ; and no further register of electors shall be prepared under the said section eleven while this Act is in force. [575]

(4) Notwithstanding anything in the Juries Act, 1922, or in any other enactment, the jurors book prepared for a county for the year beginning with the first day of January nineteen hundred and forty shall be the jurors book for that county until the end of the year beginning with the day after that with which this Act expires ; and no further jurors book shall be prepared for any county while this Act is in force. [576]

(5) This section shall be deemed to have come into force on the third day of September nineteen hundred and thirty-nine. [577]

Section 11 of the Representation of the People Act, 1918 (7 Statutes 555), as modified by the Representation of the People (Economy Provisions) Act, 1926, section 9 (7 Statutes 649) provides for the preparation of a register of electors in every year for the qualifying period (of three months) ending on the fifteenth day of July. This autumn register shall come into force on the commencement of the fifteenth day of October and remain in force until the fifteenth day of October in the next following year.

Section 1 (7) of the Juries Act, 1922 (10 Statutes 81), provides :—

“ The clerk of the council of every county shall in every year, as soon as may be after the latest date for the publication of the autumn register, obtain copies of the registers for all such registration units as are comprised in whole or in part in the county, and shall, not later than the first day of December next following, cause to be made up from such parts of the registers as relate to any part of the county a book containing the names of all the persons who are marked in those parts as jurors and that book shall be the jurors book for the county for the year beginning the first day of January next following.

3. Exemption of certain persons from duties relating to local elections and to preparation of registers and jurors books.

—No person shall, by virtue of any enactment or rule of law, be, or be deemed to have been, required to perform any duty solely for the purpose of a local election which by virtue of this Act is not to be held, or solely with a view to the preparation of a register of electors or a jurors book which by virtue of this Act is not to be prepared.

[578]

“ Local election ” is defined in section 7, *post*.

4. **Special provision as to City of London.**—The foregoing provisions of this Act, in so far as they relate to councillors, shall apply to the Common Council of the City of London as if the references therein to a local election included references to the election of a common councilman, and as if the references therein to a councillor included references to a common councilman. [579]

An Act for regulating elections within the City of London, and for preserving the peace, good order, and government of the said city, 12 & 13 Vict. c. XCIV, sections 5, 6 and 9, contains the law as to the qualifications and disqualifications of common councilmen and the holding of elections for the common council.

5. **Provisions as to incorporation of certain boroughs.**—Where by a charter of incorporation granted before the passing of this Act an urban or rural district has been or is to be created a

borough, and the first councillors of the borough would, if this Act had not been passed, have been required to be elected on the first day of November nineteen hundred and thirty-nine, then, notwithstanding any enactment or any provision in the charter—

- (a) the councillors of that district who are in office on that date shall be deemed to have been duly elected councillors of the borough and shall take office accordingly ;
- (b) if the number of councillors so taking office is less than the number fixed by the charter as the number of councillors of the borough, the vacancies shall, before any election of the mayor or aldermen of the borough takes place, be filled in the manner provided in section one of this Act for the filling of a casual vacancy in the office of a councillor ; and
- (c) the first aldermen of the borough shall be elected in the manner in which they would have been required to be elected if this Act had not been passed. [580]

As to granting a charter, see section 129 (1) of the Local Government Act, 1933 (26 Statutes 374).

Section 19 (1) of the Local Government Act, 1933 (*ibid.*, 315), provides that the election of the mayor shall be the first business transacted at the annual meeting of the council. Article 1 of Part II of the Third Schedule to the Local Government Act, 1933 (*ibid.*, p. 497), provides, *inter alia* : “ (1) The council of a borough shall in every year hold an annual meeting. . . . (2) The annual meeting shall be held at twelve noon, or at such other hour as the council may determine, on each ninth day of November. . . . ”

Section 21 (1) of the Local Government Act, 1933 (*ibid.*, p. 316), provides : (1) The aldermen of a borough shall be elected by the council of the borough from among the councillors or persons qualified to be councillors of the borough. Section 22 (1) of the same Act provides : “ The ordinary election of aldermen shall be held in every third year at the annual meeting of the council, and shall take place immediately after the election of the mayor, or if there is a sheriff, after the appointment of the sheriff.”

6. Suspension of power to make orders altering areas or constitution of local authorities.—(1) While this Act is in force, no Order in Council or order made under or confirmed by any Act passed before the first day of August nineteen hundred and thirty-nine shall come into operation so as to—

- (a) alter or define the boundaries of any county, borough, urban or rural district or parish,
- (b) divide any borough or urban district or parish into wards, or alter the boundaries of any ward in a borough or urban district or parish,
- (c) group any parishes or dissolve any group of parishes or establish a separate parish council for any parish,
- (d) alter the boundaries of the electoral divisions of any county,
- (e) alter the number of councillors of any county council, borough council, urban or rural district council or parish council or dissolve any parish council,
- (f) form a new urban or rural district or parish,
- (g) divide any county or urban or rural district or parish,
- (h) unite any county with any other county or with any county borough, or unite any county borough with a county, or unite any borough with any other borough, or unite any urban or rural district with any other such district, whether urban or rural, or unite any parish with another parish.

- (i) include in a borough an urban or rural district,
- (j) transfer a part of a non-county borough to an urban or rural district, or transfer the whole or part of an urban or rural district to a non-county borough,
- (k) transfer any part of an urban or rural district to another such district, whether urban or rural, or transfer any part of a parish to another parish, or
- (l) convert any rural district or any part of a rural district into an urban district or any urban district or any part of an urban district into a rural district. [581]

(2) Notwithstanding anything in any enactment, no person or body shall, while this Act is in force, be required to perform any duty with a view to the making of an Order in Council or order for giving effect to any such change as is mentioned in the last foregoing subsection, or with a view to considering the desirability of making such an Order in Council or order. [582]

(3) In this section the expression "order" includes any act or instrument whereby a county council fixes the number of parish councillors for a parish. [583]

The provisions governing the alteration of boundaries are contained in sections 140 *et seq.* of the Local Government Act, 1933 (26 Statutes 379).

For definitions of "borough" and "councillor", see section 7, *infra*.

7. Interpretation.—In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

- "Alderman" means a county alderman or a borough alderman ;
- "Borough" includes a metropolitan borough ;
- "Councillor" means a county councillor, borough councillor, urban or rural district councillor, or parish councillor ;
- "Elective auditor" means an elective auditor of a borough ;
- "Enactment" includes any order, rule or regulation made under the provisions of any Act ; and
- "Local election" means an election of an alderman of a county or borough, or of a councillor of a county, borough, urban or rural district or parish, or of an elective auditor of a borough. [584]

8. Application to Scotland. [585]

9. Provisions relating to Northern Ireland. [586]

10. Short title and expiry.—(1) This Act may be cited as the Local Elections and Register of Electors (Temporary Provisions) Act, 1939.

(2) Subject as hereinafter provided, this Act shall expire with the thirty-first day of December nineteen hundred and forty :

Provided that, where the term of office of an alderman, councillor or elective auditor has been continued by this Act after the time at which it would otherwise have expired, that term shall not expire by effluxion of time, until six months after the expiry of this Act, unless Parliament otherwise determines. [587]

"Alderman", "councillor" and "elective auditor" are defined in section 7, *ante*.

CASES

Election of Aldermen—Persons Entitled to Vote—Office of Mayor and Alderman held by same Person—Right of Mayor to Vote—Casting Vote of Mayor—Municipal Corporations Act, 1882 (c. 50), s. 60—Municipal Corporations Amendment Act, 1910 (c. 19), s. 1—Local Government Act, 1933 (c. 51), ss. 17, 21, 22.

P. was the mayor and an alderman of the county borough of Gateshead. In November, 1938, P. presided at a meeting held for the purpose of electing a number of aldermen. Fifteen votes, including that of P., were cast for one Peacock and the four respondents, and 15 votes were cast for four other persons. Thereupon P., as president of the meeting, gave a casting vote in favour of Peacock and the four respondents. On behalf of petitioners, the councillors of the borough, it was contended that, as P. was also an alderman of the borough, he was, by virtue of the Local Government Act, 1933, s. 22 (2), not entitled to vote at the election, and that, consequently, there had been no equality of votes entitling him to exercise a casting vote in favour of Peacock and the four respondents. On behalf of respondents, the persons elected, it was contended that P. was entitled to vote as mayor, notwithstanding the fact that he was not only mayor, but also an alderman of the borough:—

Held: P. was entitled to vote, and the candidates elected through P. giving a casting vote were duly elected aldermen.—BURDON v. BARRON, [1939] 2 All E. R. 525; *sub nom.* RE GATESHEAD BOROUGH COUNCIL ELECTION PETITION, 160 L. T. 473; 103 J. P. 225; 55 T. L. R. 652; 83 Sol. Jo. 340; 37 L. G. R. 339; Digest Supp. D. C. [588]

ELECTRICITY SUPPLY

STATUTES:—

Civil Defence Act, 1939, s. 42

[see p. 53, *ante*]

ORDERS, CIRCULARS AND MEMORANDA:—

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Re Stimpson, Gosport and Fareham Omnibus Co. and Portsmouth Corpn.'s Arbitration,
[1939] 2 All E. R. 411 — — 294

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ORDERS, CIRCULARS AND MEMORANDA

CENTRAL ELECTRICITY BOARD BORROWING
(AMENDMENT) REGULATIONS, 1939

S. R. & O., 1939, No. 697

June 5, 1939

Whereas in exercise of the powers conferred upon him by the Electricity (Supply) Act, 1926, and any and every other power thereunto him enabling the Minister of Transport with the approval of the Treasury made The Central Electricity Board Borrowing Regulations, 1928 (hereinafter referred to as "the Principal Regulations"):

And whereas it is expedient that the provisions of the Principal Regulations should be modified in manner hereinafter appearing.

Now, therefore, the Minister of Transport under the powers so conferred upon him as aforesaid and with the approval of the Treasury hereby makes the following Regulations :—

Article 1.—These Regulations may be cited as “The Central Electricity Board Borrowing (Amendment) Regulations, 1939”.

Article 2.—Article 38 of the Principal Regulations shall have effect as though in paragraph (1) thereof the words “transferred by instrument in writing” were substituted for the words “transferred by deed” and in paragraph (3) thereof the word “instrument” were substituted for the word “deed”.

Article 3.—The Interpretation Act, 1889, shall apply for the purpose of the interpretation of these Regulations in like manner as it applies for the purpose of the interpretation of an Act of Parliament.

* * * * *

[589]

CASES

Transfer of Undertaking—Compensation for Loss of Employment—Employee of Authorised Undertaking other than a Transferred Undertaking—Electricity (Supply) Act, 1919 (c. 100), s. 16—Electricity (Supply) Act, 1922 (c. 46), s. 21—Electricity (Supply) Act, 1933 (c. 46), s. 1.

In 1903, by a private Act, the Gosport and Fareham Tramways Co. were authorised to run electric tramways over an area which included Gosport. They were also authorised to enter into agreements with any local authority or electric power company in the districts in which the tramways were situate to supply any such local authority or electric power company with current for any authorised purposes. There was no provision limiting such agreements to such time as the tramways should be operated in the area in question. The company constructed mains for the supply of current for lighting purposes to an undertaking which was subsequently taken over by the Portsmouth Corporation. In 1929, a private Act was passed for the discontinuance of the tramways in Gosport and for the substitution of omnibuses therefore, but it authorised the tramways company to continue to supply current to those to whom they were already supplying it—that is, in the circumstances of this case, to the Gosport Corporation. From 1937, the Gosport Corporation took their supply of electric current from the Portsmouth Corporation, and in that year, there being then no one to whom the tramways company could supply electric current, the generating station of the tramways company was closed down and the employees were dismissed. The latter thereupon claimed compensation under the Electricity (Supply) Act, 1919, s. 16 (as amended in 1922 and 1933):—

Held: the employees were entitled to compensation, although the undertaking in which they were employed was not transferred. It was sufficient to show that they were employed by an authorised undertaking and that they lost their employment by the transfer of an authorised undertaking—the latter not being the authorised under-

taking which employed them, which in this case was not transferred but closed down.—*STIMPSON v. PORTSMOUTH CORPN.*, [1939] 2 K. B. 327; 108 L. J. K. B. 493; 160 L. T. 475; 103 J. P. 195; 83 Sol. Jo. 418; 37 L. G. R. 331; *sub nom.* *RE STIMPSON, GOSPORT AND FAREHAM OMNIBUS CO. AND PORTSMOUTH CORPN.'S ARBITRATION*, [1939] 2 All E. R. 411; 55 T. L. R. 634; Digest Supp. [590]

ELEMENTARY EDUCATION

See EDUCATION.

EVACUATION AND BILLETING

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ORDERS, CIRCULARS AND MEMORANDA

DEFENCE (GENERAL) REGULATIONS, 1939

S.R. & O., 1939, No. 927, as amended

* * * * *

PART II

PUBLIC SAFETY AND ORDER

Public Safety

21. Evacuation of areas.—(1) A Secretary of State or the Admiralty, or any person authorised by a Secretary of State or the Admiralty to act under this Regulation, may, if it appears to him or them to be necessary or expedient so to do for the purpose of meeting any actual or apprehended attack by an enemy or of protecting persons and property

from the dangers involved in any such attack, make, as respects any area in the United Kingdom, either or both of the following orders, that is to say :—

- (a) an order directing that after such time as may be specified in the order, no person other than a person of such a class as may be so specified shall be in that area without the permission of such authority or person as may be so specified ;
- (b) an order directing that any such animals or things in that area as may be specified in the order shall, by such time as may be so specified, be removed from that area or, if they cannot reasonably be so removed before that time, be destroyed or rendered useless so far as practicable, and that after that time no such animals or things shall be brought into the area except under such permission as aforesaid. [591]

(2) An order made under paragraph (1) of this Regulation for the removal of persons or property from any area—

- (a) may prescribe the routes by which persons or property, or any particular classes of persons or property, are to leave or be removed from the area ;
- (b) may prescribe different times as the times by or at which different classes of persons or property in the area are to leave or be removed therefrom ;
- (c) may prescribe the places to which persons are to proceed on leaving that area in compliance with the order ;
- (d) may make different provision in relation to different parts of the area ;

and may contain such other incidental and supplementary provisions as appear to the authority or person making the order to be necessary or expedient for the purposes of the order. [592]

(3) In relation to the area, or any part of the area, of a harbour authority the powers exercisable by a Secretary of State or the Admiralty by virtue of paragraphs (1) and (2) of this Regulation shall be exercisable also by the Minister of Transport. [593]

(4) Where an order is made under this Regulation requiring the removal of any animals or things from any area by a specified time, the authority by whom the order was made may, while the order is in force, cause those animals or things, or any of them, to be removed from the area or to be destroyed or rendered useless, if that authority is satisfied that such action is the most effectual means of securing compliance with the order ; and if any person or any animal or thing is in any area in contravention of an order made under this Regulation, then (without prejudice to any proceedings which may be taken in respect of the offence) he or it may be removed from that area by, or under the direction of, any constable or any person acting on behalf of His Majesty. [594]

(5) If any order made under this Regulation is contravened or not complied with in the case of any animal or thing, the person in charge thereof shall be guilty of an offence against this Regulation. [595]

[(6) Paragraph (3) of this Regulation shall not extend to Northern Ireland.] [596]

For definitions, see Regulation 100 (1).

Paragraph (6) was substituted for the original paragraph bearing that number by S. R. & O., 1939, No. 1786. The effect of the original paragraph was the same, but less happily expressed.

22. Billeting.—(1) Any person acting under the authority of the Minister of Health or the Commissioners of Works may serve upon the occupier of any premises a written notice (hereinafter referred to as “a billeting notice”) requiring the occupier of the premises to furnish therein, while the notice remains in force, such accommodation by way of lodging or food or both, and either with or without attendance, as may be specified in the notice for such persons as may be so specified. [597]

(2) Where a room in any premises is required by a billeting notice to be devoted exclusively to the accommodation of any person, then, notwithstanding anything in any contract, no other person shall be entitled to occupy the room so long as that requirement is in force. [598]

(3) The Minister of Health and the Commissioners of Works respectively may, to such extent and subject to such restrictions as they think proper delegate their functions under paragraph (1) of this Regulation to any specified persons or class of persons.

Any person having power to serve a billeting notice is hereinafter referred to as “a billeting officer”. [599]

(4) The occupier of any premises shall, if requested so to do by a billeting officer, furnish to such authority or person as may be specified in the request such information with respect to the accommodation contained in the premises and with respect to the persons living therein as may be so specified. [600]

(5) The price payable in respect of any accommodation furnished in any premises to any person in accordance with a billeting notice shall be such as may be determined by order of the Minister of Health, and shall be paid to the occupier of the premises by that Minister or by such other authority as may be designated by order of that Minister or of the Treasury; and the amount of any sum paid in accordance with this paragraph by that Minister or any other authority in respect of accommodation furnished to any person may be recovered by the Minister or other authority, summarily as a civil debt, from that person or his personal representative or any person liable to maintain him. [601]

(6) A billeting officer may revoke a billeting notice relating to any premises, without prejudice to the service of a further billeting notice relating to those premises; and the Minister of Health or the Commissioners of Works may by order direct that all billeting notices for the time being in force shall cease to have effect, either generally or as respects premises in a particular area. [602]

(7) Where—

(a) a billeting notice is revoked or ceases to have effect under the last preceding paragraph, or

(b) accommodation required by a billeting notice to be provided for any person ceases to be provided,

the occupier of the premises to which the billeting notice relates shall forthwith surrender it to a billeting officer; who shall cancel or amend the notice, as the case may require. [603]

[Where any accommodation provided in any premises for any person lodged therein under voluntary arrangements made with a local authority in pursuance of plans prepared by His Majesty's Government for the transference of members of the civil population from one area to another, ceases to be provided, the preceding provisions of this paragraph shall apply as if the accommodation had been provided under a billeting notice,

and as if the form issued in pursuance of those plans, stating that the said person has been so lodged, had been a billeting notice relating to those premises.]

(8) If any person contravenes or fails to comply with the requirements of a billeting notice or with any of the requirements of this Regulation, he shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment. [604]

(9) For the purposes of hearing complaints in respect of billeting notices there shall be tribunals constituted in accordance with such rules as may be made by the Minister of Health; and any person who is aggrieved by the service upon him of a billeting notice, or by the operation of a billeting notice served upon him, may, subject to, and in accordance with, rules made by the Minister of Health, make a complaint to a tribunal constituted under this paragraph; and upon hearing the complaint the tribunal may cancel or vary the billeting notice as the tribunal thinks fit. [605]

[(9A) Where there is operative on the twenty-first day of October, nineteen hundred and thirty-nine, a notice issued to the occupier of any premises under voluntary arrangements made with a local authority in pursuance of an evacuation plan, stating that a person specified in the notice has been lodged in the premises on the understanding that the occupier will provide him with such accommodation as is mentioned in the notice, the said notice shall, for all the purposes of this Regulation, have effect as if it were a billeting notice duly served on that day, requiring the occupier of the premises to furnish the said accommodation therein for the said person.] [606]

(10) This Regulation shall not authorise the service of a billeting notice requiring the furnishing of accommodation for any person who can lawfully be billeted by virtue of the Naval Billeting, &c., Act, 1914, the Army Act or the Air Force Act. [607]

(11) Sections two hundred and six to two hundred and nineteen of the Public Health Act, 1936, shall not apply in relation to any children for whom accommodation is for the time being furnished in pursuance of this Regulation or of [an evacuation plan]; but it shall be the duty of the occupier of any premises in which accommodation for any child not accompanied by a person otherwise responsible for his care is so furnished as aforesaid to care for the child to the best of the occupier's ability. [608]

(12) A billeting notice relating to any premises may, if it is not practicable to deliver it to the occupier of the premises, be served by delivering it to any person on the premises. [609]

(13) This Regulation shall, in its application to Scotland, have effect subject to the following modifications:—

- (a) for references to the Minister of Health there shall be substituted references to the Secretary of State;
- (b) paragraph (5) shall have effect as if the word "summarily" were omitted;
- (c) for the reference in paragraph (11) to sections two hundred and six to two hundred and nineteen of the Public Health Act, 1936, there shall be substituted a reference to sections one to eleven of the Children and Young Persons (Scotland) Act, 1937. [610]

(14) This Regulation shall, in its application to Northern Ireland, have effect subject to the following modifications :—

- (a) for references to the Minister of Health there shall be substituted references to the Secretary of State ;
- (b) for the reference in paragraph (11) to sections two hundred and six to two hundred and nineteen of the Public Health Act, 1936, there shall be substituted a reference to Part I of the Children Act, 1908, as amended by the Children (Amendment) Act (Northern Ireland), 1931. [611]

The words in italics in para. (7) were omitted by S. R. & O., 1939, No. 1416. Para. (9A) was inserted by the same Order and the words in brackets in para. (11) were substituted by the same Order as a result of the addition to the list of definitions noted under s. 101.

For definitions, see Regulation 100 (1).

Sections 206 to 219 of the Public Health Act, 1936 (29 Statutes 463–470), deal with the protection of child life. They provide for notices to be given to the welfare authority by persons receiving children for reward, the appointment of child protection visitors, the prohibition of certain persons from receiving foster children, the power of the welfare authority to prevent overcrowding where foster children are kept, the removal of foster children kept in unsuitable premises or by unsuitable persons, the notification of deaths of foster children to the coroner, and certain minor consequential matters.

Secretary of State.—It appears from the operation of paras. (13) and (14) and Regulation 38, that the Minister for the purposes of the Civil Defence Act, 1939, may exercise functions under this regulation in Scotland and Northern Ireland but not in England and Wales.

* * * * *

31A. Provision of food, lodging and medical treatment for persons transferred under evacuation plans.—(1) The Minister of Health may make arrangements for the provision of food or lodging or both for persons transferred under an evacuation plan ; and where, in pursuance of such arrangements, food or lodging is provided for any person, there shall be payable in respect thereof to the said Minister a charge determined in accordance with such scale as that Minister, with the approval of the Treasury, may from time to time fix, and the amount of the charge may be recovered by the Minister summarily as a civil debt from that person or from his personal representative or any person liable to maintain him. [612]

(2) The Minister of Health may make arrangements for securing that proper medical treatment will be available for persons transferred under an evacuation plan, and for the remuneration by that Minister of persons providing medical treatment under those arrangements.

In respect of each person for whom medical treatment is available under the said arrangements, a sum calculated at such rate as the said Minister, with the approval of the Treasury, may by order prescribe, shall be payable to that Minister, and may be recovered by him summarily as a civil debt from that person or from his personal representative or any person liable to maintain him. [613]

(3) In this Regulation the expression “ medical treatment ” means such medical attendance and treatment (including the supply of medicine and medical and surgical appliances) as may be provided by way of medical benefit under the National Health Insurance Act, 1936. [614]

(4) This Regulation shall, in its application to Scotland, have effect subject to the following modifications :—

- (a) for references to the Minister of Health, there shall be substituted references to the Secretary of State ; and
- (b) paragraphs (1) and (2) shall have effect as if the word “ summarily ” were omitted. [615]

This regulation was added by S. R. & O., 1939, No. 1416, and takes the place of the revoked parts of Regulation 32.

For definition of evacuation plan, see Regulation 100 (1).

The following Order has been made under this regulation :—

Order prescribing rate of payment for medical treatment (S. R. & O., 1939, No. 1535).

31B. Power to remit charges.—(1) The Minister of Health or a person acting on his behalf may, in relation to any class of cases or in any particular case, dispense with payment, wholly or in part, of any charge or other sum which would otherwise be payable to that Minister under the last preceding Regulation or be payable to him under Regulation twenty-two of these Regulations in respect of persons transferred under an evacuation plan. [616]

(2) This Regulation shall, in its application to Scotland, have effect as if for references to the Minister of Health there were substituted references to the Secretary of State. [617]

This regulation was added by S. R. & O., 1939, No. 1416.

* * * * *

32A. Transfer of persons of unsound mind and mental defectives under evacuation plans.—(1) Where, in accordance with arrangements made by the Minister of Health under section fifty of the Civil Defence Act, 1939, a person of unsound mind is transferred from any institution within the meaning of the Mental Treatment Act, 1930, in which he is being treated or maintained to another such institution or to an institution within the meaning of the Mental Deficiency Act, 1913, he shall be deemed to have been so transferred by virtue of an order duly made under section fifty-nine of the Lunacy Act, 1890, or an order duly made under section sixty-five of that Act, whichever order would be appropriate in his case :

Provided that a person being detained as a criminal lunatic in the institution from which he is so transferred in accordance with such arrangements as aforesaid, shall be deemed to have been so transferred by virtue of a warrant of the Secretary of State duly issued under section five of the Criminal Lunatics Act, 1884. [618]

(2) In relation to a person of unsound mind who, in accordance with such arrangements as aforesaid, is transferred from any mental hospital in which he is being treated or maintained to an institution within the meaning of the Mental Deficiency Act, 1913, that institution shall be deemed to be a mental hospital to which he might lawfully be transferred by virtue of an order under section fifty-nine or section sixty-five of the Lunacy Act, 1890, or a warrant under section five of the Criminal Lunatics Act, 1884, as the case may be ; and anything which, under the Lunacy and Mental Treatment Acts, 1890 to 1930, or the Criminal Lunatics Act, 1884, would, if the institution to which he is so transferred were such a mental hospital as aforesaid, be required or authorised to be done in relation to him by the persons having the management or control of, or employed for the purposes of, the mental hospital shall or may, as the case may be, be done by the persons having the management or control of, or employed for the purposes of, the said institution. [619]

(3) In relation to any person being treated as a temporary patient, paragraphs (1) and (2) of this Regulation shall have effect as if for any reference in those paragraphs to section fifty-nine of the Lunacy Act, 1890, or to section sixty-five of that Act there were substituted a

reference to the rules made under section three hundred and thirty-eight of that Act as extended by section fifteen of the Mental Treatment Act, 1930, applying the said section fifty-nine or the said section sixty-five, as the case may be, to that person. [620]

(4) Where, in accordance with such arrangements as aforesaid, a mental defective is transferred from any institution within the meaning of the Mental Deficiency Act, 1913, in which he is being treated or maintained, to another such institution, he shall be deemed to have been so transferred in accordance with regulations duly made under section forty-one of the said Act. [621]

(5) Where, in accordance with such arrangements as aforesaid, a mental defective is transferred from any institution within the meaning of the Mental Deficiency Act, 1913, in which he is being treated or maintained, to a mental hospital, he shall be deemed to have been so transferred in accordance with regulations duly made under section forty-one of the said Act, and the mental hospital shall be deemed to be an institution for his transfer to which provision might lawfully be made by such regulations; and anything which, under the Mental Deficiency Acts, 1913 to 1938, would, if the mental hospital were such an institution as is last mentioned, be required or authorised to be done in relation to him by the persons having the management or control of, or employed for the purposes of the institution, shall or may, as the case may be, be done by the persons having the management or control of, or employed for the purposes of, the said mental hospital. [622]

(6) In this Regulation the expression "mental hospital" has the meaning assigned to that expression by section three hundred and forty-one of the Lunacy Act, 1890, as amended by section twenty of the Mental Treatment Act, 1930. [623]

(7) In the application of this Regulation to Scotland—[624]

* * * * *

THE DEFENCE (BILLETING TRIBUNALS) RULES, 1939

S. R. & O., 1939, No. 986

August 26, 1939

In the exercise of his powers under paragraph (9) of regulation 22 of the Defence Regulations, 1939, the Minister of Health hereby makes the following rules:—

1. These rules may be cited as the Defence (Billeting Tribunals) Rules, 1939.

2.—(1) In these rules, unless the context otherwise requires,

"Minister" means the Minister of Health;

"local authority" means the council of a county borough or county district;

"mayor" means the mayor of a county borough or borough;

"chairman" means the chairman of a district council.

(2) The Interpretation Act, 1889, applies to the interpretation of these rules as it applies to the interpretation of an Act of Parliament.

3.—(1) A tribunal shall be constituted for each county borough and county district for the purpose of hearing complaints in respect of billeting notices.

Provided that if the mayor or chairman considers that in view of the circumstances prevailing in the borough or district more than one tribunal is necessary, two or more such tribunals may be constituted in the borough or district, and for the purpose of defining the jurisdiction of each such tribunal the mayor or chairman may divide a borough or district into two or more areas.

(2) If a tribunal has been constituted for any area for the purpose of hearing complaints in respect of billeting notices under regulations made under section 56 of the Civil Defence Act, 1939, the chairman and other members of that tribunal shall without further appointment by the tribunal for that area under these rules, and the provisions of these rules shall apply to that tribunal as if it had been constituted and as if its chairman other members and standing deputies had been appointed under the provisions of these rules.

By S.R. & O. 1939 No. 993 references in this Order to a county borough include references to a metropolitan borough.

4.—(1) A tribunal shall be appointed by the mayor or chairman and shall consist of a chairman of the tribunal and two other members. One member of the tribunal shall be a woman.

(2) If a list of persons approved by the local authority for appointment as members of a tribunal has been prepared, persons appointed as members shall be selected from that list :

Provided that if the mayor or chairman is satisfied that for any reason persons included in that list are not available the mayor or chairman shall appoint such other persons as he may think fit.

(3) If the Minister is satisfied on the representation of a local authority, mayor or chairman that a person appointed to act as a member of a tribunal should no longer continue to act in that capacity he may determine his appointment.

(4) The mayor or chairman shall have power to appoint a standing deputy for any member of a tribunal.

(5) The powers and duties of the mayor or chairman under the preceding rules shall, if he is absent or otherwise incapable of acting be exercised by the deputy mayor or deputy chairman.

6.—(1) Any person desiring to lodge a complaint with the tribunal shall give notice in writing stating the grounds of his complaint to the town clerk or clerk of the district council who shall inform the chairman of the tribunal accordingly, and the chairman of the tribunal may require the complainant to furnish in writing such further particulars relative to the grounds of complaint as he may think fit.

(2) A complaint shall be considered and dealt with by the tribunal as soon as may be after it has been lodged.

7. For the purpose of disposing of the complaint the tribunal may hear such evidence and make such investigations as they may think fit but they shall not dispose of any complaint without giving a reasonable opportunity to the complainant to be heard if he so desires.

8. The chairman and one of the other members of the tribunal shall form a quorum and in the event of an equality of votes the chairman shall have a casting vote.

9. The procedure of a tribunal shall subject to these rules be such as the tribunal may determine.

10. In these rules any reference to the chairman or to a member of the tribunal shall be deemed where the circumstances so require to be a reference to his standing deputy. [625]

ORDER UNDER REGULATION 31A OF THE DEFENCE REGULATIONS, 1939, PRESCRIBING THE RATE AT WHICH THE SUM PAYABLE TO THE MINISTER IN RESPECT OF MEDICAL TREATMENT OF PERSONS TRANSFERRED UNDER AN EVACUATION PLAN IS TO BE CALCULATED

S. R. & O., 1939, No. 1535

October 21, 1939

(102600)

The Minister of Health in exercise of the powers conferred on him by Regulation 31A of the Defence Regulations, 1939, with the approval of the Treasury hereby makes the following Order :—

The sum payable to the Minister under paragraph (2) of Regulation 31A of the Defence Regulations, 1939, in respect of each person for whom medical treatment is available under arrangements made by the Minister for securing that proper medical treatment will be available for persons transferred under an evacuation plan shall be a sum calculated at the rate of 2d. per week. [626]

* * * * *

ORDER UNDER REGULATION 22 (5) OF THE DEFENCE REGULATIONS, 1939, PRESCRIBING THE PRICE PAYABLE IN RESPECT OF ACCOMMODATION FURNISHED IN ANY PREMISES IN ACCORDANCE WITH A BILLETING NOTICE, WHERE THE OCCUPIER IS REQUIRED TO PROVIDE BOARD AND LODGING FOR TWO OR MORE CHILDREN ALL OR ANY OF WHOM HAVE ATTAINED THE AGE OF SIXTEEN

S. R. & O., 1939, No. 1646

November 14, 1939

(102620)

The Minister of Health, in pursuance of his powers under Regulation 22 (5) of the Defence Regulations, 1939, hereby makes the following order :—

Notwithstanding the provisions of paragraph (a) of the Order made by the Minister of Health under the above Regulation and dated the 27th day of August, 1939, the price payable in respect of accommodation furnished in any premises in accordance with a billeting notice, in the case where the occupier is required to provide board and lodging for two or more children all or any of whom have attained the age of

sixteen, shall be at the rate of 10s. 6d. a week for each child who has attained the age of sixteen and at the rate of 8s. 6d. a week for each child under that age. [627]

* * * * *

GOVERNMENT EVACUATION SCHEME

Circular 1828

England and Wales

June 5, 1939

EMERGENCY PROVISION OF BLANKETS AND OVERLAYS

SIR,—I am directed by the Minister of Health to communicate with the Local Authority on the question of the provision of blankets for the use of children and others to be evacuated in the event of emergency under the Government scheme.

2. I am to refer to paragraph 65 of Memorandum Ev. 4 which was enclosed with Circular 1800 of 1st May, 1939, and to state that orders have been placed by the Government for substantial supplies of blankets, which will be distributed to Local Authorities as and when delivery of the blankets can be given by the manufacturers. The first deliveries may be expected to be received by Authorities in the course of the next few weeks and in allocating the number to be sent to each Authority the Minister will have regard to the number of children and others to be sent to the district during the period covered by the railway timetables in force, the blanket deficit of the district as revealed at the time of the billeting survey and the total number supplied by the manufacturers. Subsequent deliveries will be based on the same principle. It may be some time before supplies adequate to the needs of the district can be made in this way, in view of the great pressure and demands upon manufacturers arising from other defence requirements.

3. Deliveries of these blankets ordered by the Minister will be made direct to Authorities by the manufacturers. The blankets will be wrapped in stout paper in packages of 10 and the packages will probably be baled in convenient quantities in hessian. Each package of 10 will weigh approximately forty-two pounds and will measure approximately 2 ft. 8 ins. by 1 ft. 10 ins. by 1 ft. Instalments will be consigned to the Clerk of the Council at the Council Offices unless any other arrangement is desired, in which case the Department should forthwith be informed of the name and address of the person to whom delivery should be made.

4. The question of preservation and storage of the blankets is a matter of importance to which Authorities will no doubt wish to give immediate attention.

Preservation.—On the receipt of a consignment Authorities should open the packages to check the numbers in relation to that given in the advice note. The Ministry are advised that if the blankets are then completely enclosed in good quality paper with naphthalene at the rate of one pound to each 6 to 10 cubic feet of space a reasonable measure of protection should be ensured provided that the paper is

not subsequently holed or torn. Probably Authorities will consider it advisable to repack the blankets in the units of 10 in which they arrive, each package containing about half a pound of naphthalene. This course would facilitate handling and counting for distribution in an emergency and reduce losses or deterioration from moth attack, etc. Where damage to the paper is liable to occur, e.g., where it is impossible to store the blankets in accommodation which can be kept locked, it may be found advisable to protect the packages by re-baling them in the outer wrapping in which they arrived.

Storage.—The blankets must be immediately available on an emergency arising and transport to any considerable distance under the conditions of emergency might be out of the question. The Authority should consider in immediate consultation with such other Authorities as may be concerned the possibilities of provision of the necessary space in Public Assistance Institutions, schools, maternity and child welfare centres, etc., as well as any which may be offered by private persons or put at their disposal by voluntary associations, such as the British Legion, the Women's Voluntary Services, the Women's Institutes and church organisations. The Minister recognises that in some cases suitable storage may not be available from these sources. In such cases he will be glad of information as to the estimated cost of hiring special accommodation suitable for such a purpose or alternatively of renting it from local firms who may have repository or storage space available.

The Minister would be glad to be advised of the steps the Local Authority propose to take for storage. Approved expenditure for this purpose will rank as an evacuation charge and be recouped by way of the special grant. At a later date the Minister will ask Local Authorities to indicate the places in which the blankets have been stored and to give him an undertaking that they will be held on his behalf and available for inspection by duly authorised officers. For the purpose of his direction to the manufacturers he would, however, be glad to be informed forthwith whether the Authority is in a position to accept delivery.

5. The Local Authority will recognise the importance of having at their disposal the fullest information as to any supplies of blankets that could be made available out of local resources, should an emergency arise. The Authority themselves can no doubt form an estimate of the stocks normally held by wholesale and retail firms in their area. As regards other possible sources of supply there may be some householders who have undertaken to provide billets and still have some spare bedding and others who for one reason or another are unable to undertake the care of children but would be ready in an emergency to assist in this important national service by giving blankets or undertaking to supply them to the Authority at a price to be determined in relation to the quality and condition of the blankets offered and to the cost of the supplies to be furnished by the Government. The Minister feels that in any area it will only be necessary to approach the many voluntary associations, such as those previously mentioned, to secure most readily the assistance needed in collecting information regarding available supplies and in organising the arrangements for the use of this information in an emergency.

The Minister will be glad to be informed as opportunity permits and in any case within the next two months of the Local Authority's estimate of their total needs for those persons to be brought to their

district under the transport arrangements which have now been made, and of the contribution to that total which can in their judgment be made locally :

- (a) by purchase, in the event of an emergency from local wholesalers or retailers;
- (b) by gifts or purchase from private individuals.

6. A supply of material for mackintosh overlays for the beds of young children has also been ordered by the Government and will shortly be sent to Local Authorities. Delivery will be made in rolls and the material will be one yard in width and about fifty yards in length. It is intended that the overlays shall in general be about one yard square. The rolls should not, however, be cut until the overlays are required. The rolls should be stored in a cool dry place.

7. A further communication will be addressed to the Authority shortly in regard to the requirements in the matter of bedding disclosed by the billeting survey.

I am, Sir, etc. [628]

GOVERNMENT EVACUATION SCHEME

Circular 1851

(England and Wales)

August 17, 1939

EMERGENCY PROVISION OF BEDS

SIR,—I am directed by the Ministry of Health to communicate with the Local Authority on the question of the provision of beds for the use of children and others to be evacuated in the event of emergency under the Government scheme.

2. I am to refer to paragraph 65 of Memorandum Ev.4 which was enclosed with Circular 1800 of 1st May, 1939, and to state that orders have been placed by the Government for substantial supplies of folding camp beds, which will be distributed to Local Authorities as and when delivery can be given by the manufacturers. The first deliveries may be expected to be received by Authorities in the course of the next week or two and in allocating the number to be sent to each Authority the Minister will have regard to the number of children and others to be sent to the district during the period covered by the railway time-tables in force, the bed deficit of the district as revealed at the time of the billeting survey and the total number supplied by the manufacturers. Subsequent deliveries will be based on the same principle. It may be some time before supplies adequate to the needs of the district can be made in this way, in view of the great pressure and demands upon manufacturers arising from other defence requirements.

In order to secure the largest deliveries and at the earliest date practicable, different types of bed have been ordered, some being of metal and others of wood, but all can be folded and all can be used by an adult if necessary. The question of the supply of mattresses instead of camp beds received consideration, but the Minister was advised that the storage and preservation of these would be a matter of great difficulty. The metal bed consists of a tubular steel frame with

proofed canvas, and when folded is about 6 feet 6 inches long, 2 feet 6 inches wide, and 2 inches deep, and weighs about 25 pounds. The other beds have wooden frames with proofed canvas. When folded one type is about 3 feet 1 inch long, 6½ inches wide and 5 inches deep, and weighs about 14 pounds; the other about 6 feet 1 inch long, 2 feet 3 inches wide and 3 inches deep, and weighs about 13 pounds. The various types will be allocated by the Minister as circumstances will allow.

3. Deliveries of the beds ordered by the Minister will be made direct to Authorities by the manufacturers, and will be consigned to the Clerk of the Council at the Council Offices unless any other arrangement is desired, in which case the Department should forthwith be informed of the name and address of the person to whom delivery should be made.

A form of receipt will be sent when deliveries commence. The accounts of the firms supplying the goods cannot be paid until this form has been duly signed on behalf of the Authority and returned to H.M. Office of Works. It is requested that these receipts may be returned promptly since many of the accounts are subject to discount if payment is made within a period of from seven to fourteen days.

4. The question of the storage of the beds is a matter of importance to which Authorities will no doubt wish to give immediate attention. The beds must be kept in a dry place and must be immediately available on an emergency arising. Transport to any considerable distance under the conditions of emergency might be out of the question. The Authority should consider in immediate consultation with such other Authorities as may be concerned the possibilities of provision of the necessary space in Public Assistance Institutions, schools, maternity and child welfare centres, etc., as well as any which may be offered by private persons or put at their disposal by voluntary associations, such as the British Legion, the Women's Voluntary Service, the Women's Institutes and church organisations. The Minister is aware of the difficulties that some Local Authorities may have in securing storage facilities near to the billets where the beds would be required. He is desirous, therefore, of pointing out that persons who have room to do so would be rendering a national service by undertaking the storage and care of beds and blankets supplied to Local Authorities under the Government Evacuation Scheme. He recognises, however, that in some cases suitable storage may not be available from the sources mentioned above. In such cases he will be glad of information as to the estimated cost of hiring special accommodation suitable for such a purpose or alternatively of renting it from local firms who may have repository or storage space available.

The Minister would be glad to be advised of the steps the Local Authority propose to take for storage. Approved expenditure for this purpose will rank as an evacuation charge and be recouped by way of the special grant. At a later date the Minister will ask Local Authorities to indicate the places in which the beds have been stored and to give him an undertaking that they will be held on his behalf and available for inspection by duly authorised officers. For the purpose of his directions to the manufacturers he would, however, be glad to be informed forthwith whether the Authority is in a position to accept delivery.

5. The Local Authority will recognise the importance of having at their disposal the fullest information as to any supplies of beds or mattresses that could be made available out of local resources, should

an emergency arise. The Authority themselves can, no doubt, form an estimate of the stocks normally held by wholesale and retail firms in their area. As regards other possible sources of supply there may be some householders who have undertaken to provide billets and still have some spare bedding, and others who, for one reason or another, are unable to undertake the care of children, but would be ready in an emergency to assist in this important national service by giving beds or mattresses or undertaking to supply them to the Authority at a reasonable price. The Minister feels that in any area it will only be necessary to approach the many voluntary associations, such as those previously mentioned, to secure most readily the assistance needed in collecting information regarding available supplies and in organising the arrangements for the use of this information in an emergency.

The Minister will be glad to be informed as opportunity permits, and in any case within the next two months of the Local Authority's estimate of their total needs for those persons to be brought to their district under the transport arrangements which have now been made, and of the contribution to that total which can in their judgment be made locally :—

- (a) by purchase, in the event of an emergency, from local wholesalers or retailers ;
- (b) by gifts or purchase from private individuals.

I am, Sir, etc. [629]

BILLETING REGULATIONS

Circular 1857

August 27, 1939

SIR,—I am directed to refer to paragraphs 16 to 24 of Circular 1841 issued on the 28th July last, and to state that in view of the passing on the 24th instant of the Emergency Powers (Defence) Act it is now proposed to deal with the question of billeting by Regulations under that Act and not, as stated in the circular, by Regulations under Section 56 of the Civil Defence Act, 1939. A copy of the relevant Regulation (Reg. 22) is enclosed. This Regulation, combined with the Rules made under paragraph (9) of the Regulation, a copy of which is also enclosed, has the same practical effect as the proposed Regulations under the Civil Defence Act described in the paragraphs of the circular referred to.

1. Subject to the conditions stated below, the Minister in exercise of his power under paragraph (3) of the Defence Regulation delegates the power of appointing Billeting Officers for your Borough [District] to the Mayor [Chairman of the Council], or, if he is absent or otherwise incapable of acting, to the Deputy Mayor [Deputy Chairman].

The conditions are as follows :—

- (a) The Mayor [Chairman] will appoint as many Billeting Officers as in the exercise of his discretion he considers necessary.
- (b) If a list of prospective Billeting Officers has been drawn up, as requested in paragraph 19 of Circular 1841, the Billeting

Officers should be selected from that list, but if the Mayor [Chairman] is satisfied that for any reason persons included in that list are not available or that additional Billeting Officers should be appointed, he should make the necessary appointments from persons outside the list.

- (c) As stated in paragraph 19 of the circular, the Mayor [Chairman] should appoint a Chief Billeting Officer who should be the person designated for that purpose in accordance with the terms of that paragraph, if such designation has taken place and unless the Mayor [Chairman] is satisfied that the designated person is for any reason not available. The other Billeting Officers will act under the general directions and supervision of the Chief Billeting Officer.
- (d) Every appointment is to be made in writing under the hand of the Mayor [Chairman], and will be subject to a power for the Mayor [Chairman] or the Local Authority at any time to cancel or terminate the appointment, whereupon the Billeting Officer must immediately surrender any document of appointment.
- (e) The power of Billeting Officers appointed under this authorisation extends only to the billeting of persons to whom the Government evacuation plan under Section 56 of the Civil Defence Act, 1939, applies including teachers, voluntary helpers, and other persons engaged in carrying out the plan; a further letter is being addressed to you with regard to the billeting of certain other classes of persons.

2. The provisions for tribunals of appeal mentioned in paragraph 22 of Circular 1841 are dealt with in the Rules under paragraph (9) of the Defence Regulation referred to above. These Rules are similar to those which it was proposed to insert in the Regulations under the Civil Defence Act, and paragraph 22 of the circular remains applicable in substance. The Mayor [Chairman] should take immediate steps to make the necessary appointments as stated in that paragraph, the appointments being made from any list drawn up by the Local Authority if such a list has been prepared.

3. With reference to paragraph (2) of the Defence Regulation, as indicated in paragraph 21 of Circular 1841, it is not contemplated that it will normally be necessary for the Billeting Officer to state on the billeting notice the exact accommodation to be reserved.

4. As your Authority are aware, it has been decided that the prices payable for accommodation under billeting notices shall be as follows:—

For children provided with board and lodging, 10s. 6d. per week where one child is taken, and 8s. 6d. per week for each child where more than one child is taken.

For persons provided only with lodging (with the use of the water supply and sanitary conveniences), 5s. per week for each adult, and 3s. per week for each child.

For voluntary helpers from the evacuation areas working full time in the reception areas, 21s. per week for each person to cover board and lodging.

An order has been made by the Minister under paragraph (5) of the Defence Regulation giving effect to this decision.

5. The effect of paragraph (11) of the Defence Regulation is to suspend the operation of the sections of the Public Health Act, 1936,

dealing with persons who receive children apart from their parents, and to substitute an obligation on the householder to care for any unaccompanied child to the best of his ability. It is important that the Local Authority should make arrangements for the subsequent visiting of children in billets by the Billeting Officers or other suitable persons in order to satisfy themselves as to the welfare of the children.

REQUISITIONING POWERS

6. Local Authorities have in many cases already made arrangements for the temporary use of unoccupied buildings for evacuation purposes, and it is not thought that the use of compulsory requisitioning powers will often be necessary. In order, however, to meet cases in which accommodation in unoccupied dwelling-houses or other buildings is urgently required for purposes of the Government Evacuation Scheme and no arrangements with the owners have been found practicable, the Minister has decided to delegate to the Clerks of Local Authorities the requisitioning powers conferred on him by Regulation 51 of the Defence Regulations, the relevant portions of which are enclosed. Accordingly, in exercise of his power under paragraph (5) of that Regulation the Minister delegates to you as Town Clerk [Clerk of the Council] his functions under paragraphs (1) to (3) of the Regulation. The delegation is subject to the following restrictions :—

- (i) The requisitioning power is limited to the taking possession of
 - (a) Houses or other residential buildings, in both cases if unoccupied ;
 - (b) Other buildings whether occupied or not.
- (ii) The power is limited to the taking of possession of buildings for some purpose directly connected with the Government's Evacuation Scheme under Section 56 of the Civil Defence Act, 1939, as, for example, the accommodation of persons transferred under the scheme or the provision of accommodation for communal meals, etc., for these persons.
- (iii) The period of occupation of the building is not to extend beyond one month from the date of taking possession, unless the requisition is confirmed by the Minister.
- (iv) No building may be requisitioned if arrangements have been made for its use by or on behalf of any Government Department, whether by way of requisition, or otherwise or if the building has been designated under Section 2 of the Civil Defence Act, 1939, or is in the occupation of any other Local Authority.
- (v) The requisition is subject to the right of the Minister at any time to direct the Authority to hand over the premises to the owner.

7. It is suggested that the requisition notice should take the form appended to this circular.

The requisitioning of premises should be at once reported to the Ministry. The report should state the address and nature of the premises and the use to which they are being put.

The Minister desires to emphasize that this requisitioning power should only be exercised in cases of urgent necessity. The cost of any necessary accommodation which may be secured in accordance with the terms of this circular will be borne by the Government.

Any sums payable in respect of requisitioned premises will be determined on the general principles applicable to war compensation and accordingly Clerks should not attempt to negotiate the terms on which the premises will be taken over.

In the event of any requisitioned premises being no longer needed, they should at once be handed over to the owner.

I am, Sir, etc.

APPENDIX

FORM OF REQUISITION NOTICE

1. The name and address of owner, if known, should be inserted. To : ¹
2. The property should be identified. the owner of ²

TAKE NOTICE that in exercise of the powers delegated to me by the Minister of Health under and by virtue of Regulation 51 of the Defence Regulations, 1939, I have this day taken possession of the premises known as ²

Signed

Clerk to the

Council.

Date.....

It is desirable that this notice if not delivered to the owner should be sent by letter addressed to his last or usual place of abode or place of business.

[680]

BILLETING REGULATIONS

Circular 1857A

August 27, 1939

BILLETING OF PERSONS ENGAGED IN CIVIL DEFENCE, ETC.

SIR,—I am directed by the Minister of Health to refer to the delegation to Local Authorities, by Circular 1857, which is being issued to-day, of his powers under Defence Regulation 22 of appointing Billeting Officers. The Minister, in consultation with the Lord Privy Seal, has decided to extend and hereby extends the billeting powers of the Billeting Officers to be appointed under the terms of the Circular referred to so as to include the billeting of the following classes of person :—

- (a) any member of a Police Force or the Police War Reserve or any whole-time Special Constable who is notified to you by the Chief Officer of Police for your area or by his deputy as a person for whom accommodation should be found ;
- (b) any member of a Fire Brigade or whole-time member of the Auxiliary Fire Service who is notified to you by the Fire Authority for your area as a person for whom accommodation should be found ;

- (c) any person engaged in whole-time service on air-raid precautions work who is notified to you by the Air-Raid Precautions Authority for your area as a person for whom accommodation should be found;
- (d) any nurse or other person engaged in connection with the arrangements made for the treatment of casualties under Section 50 of the Civil Defence Act, 1939, who is notified to you by the Medical Officer or other person in charge of the hospital or institution as a person for whom accommodation should be found.

2. The provisions of paragraphs 2 and 3 of Circular 1857 with regard to appeals will apply to persons billeted under this section.

3. The price payable for accommodation will be 21s. per week in a case where board and lodging is provided and 5s. a week in a case where lodging only is provided. An Order has been made by the Minister under paragraph 7 of the Defence Regulation giving effect to this.

4. The notices which you will receive under paragraphs (a) to (d) above will state whether both board and lodging or lodging only required.

I am, Sir, etc.

[631]

HOMELESS PERSONS

Circular 1860

September 2, 1939

SIR,—I am directed by the Minister of Health to state that as the Council are aware from the circular which was addressed to them on the 27th August by the Unemployment Assistance Board, he has had under consideration the question of the provision of food and shelter for persons temporarily rendered homeless and destitute by the destruction of their houses by enemy action and for persons other than those included in the Government's evacuation scheme who may leave their homes and find their way destitute into neighbouring districts.

2. The Minister has already addressed letters to the Public Assistance Authorities of a number of vulnerable areas asking them to establish stations for the provision of food for the first class of person, and the majority have submitted schemes to him for this purpose. The Government's view, as the Council are aware, is that it is generally desirable that persons should not leave their homes at times of aerial attack, but it is nevertheless anticipated that where any area is subjected to serious bombardment there may be an influx of population without shelter or means of support into the neighbouring districts, for whom it will be necessary to make such provision.

3. I am, therefore, to request that those Public Assistance Authorities which have not already done so will take immediate steps to establish feeding stations at any points at which it appears to them that such arrangements are likely to be necessary. The Minister appreciates that apart from the provision of food a certain amount of equipment for its preparation and service may be required, and the Government will be prepared to reimburse to any Authority which

receives at such stations persons who may leave their own districts of residence and make their way destitute into the Authority's area, the cost of the provision of this service. It should be understood that any equipment purchased at the cost of the Government will remain the property of the Government, and before any purchase is made, the sanction of the regional representative of the Ministry of Health should be obtained. The Government will also give financial assistance to meet any substantial additional burden on the rates, over and above the normal level of public assistance expenditure, necessitated by the provision of this service for residents in the Authority's own district who may be rendered homeless by enemy action.

4. In many cases it will no doubt be necessary also to improvise temporary shelter of some kind for homeless persons and refugees, and, where feeding stations have been established in halls, schools, or similar buildings, it may be found possible to arrange for such persons to be temporarily accommodated there until they return to their homes or are otherwise housed. Other buildings of this kind in the vicinity of the feeding stations may also be required for purposes of shelter only, and the Council should consider what accommodation might at short notice be available for this purpose. It is not, however, contemplated that in general any expenditure need be incurred on retaining such accommodation in advance. Any expenses necessarily incurred by the Council in providing such shelter in so far as the shelter is used by persons from outside the Council's own area will be reimbursed by the Government.

5. After a short interval most of these persons will no doubt be able either to return to their homes or to obtain fresh accommodation for themselves. It is suggested, however, that the Council should arrange for helping such persons so far as may be necessary to find accommodation suitable to their circumstances. There may, however, in some places be a small residuum for whom it will be necessary to provide billets. It is not the intention of the Government that billets should be found for every person who thinks fit to leave his home, and the Minister wishes to emphasise that the Council should put as little strain as possible on the billeting resources of the area. Further, for some of the persons in question billeting may not offer a suitable solution, and the arrangements for temporary accommodation made under the preceding paragraph may have to suffice until these cases can be disposed of otherwise.

6. In County Boroughs the duty of billeting persons evacuated under the Government plan has already been vested in Billeting Officers appointed under the terms of Circular 1857. If cases should arise where it is desirable to accommodate any persons rendered homeless in billets within the Borough itself, the Chief Billeting Officer should make the necessary arrangements, and the powers of the Billeting Officers are hereby extended to cover the billeting of cases of this kind. Any action taken should be at once reported to the Senior Regional Officer of the Ministry of Health. It should seldom be necessary to provide billets for this class of person for more than a few days, and in any case where it is thought necessary to extend the period beyond 14 days the approval of the Senior Regional Officer should be obtained.

If it is considered necessary to secure accommodation outside the Borough, the Senior Regional Officer should be approached in order that arrangements may be made with the Billeting Officers of

the appropriate neighbouring Authorities for securing the requisite accommodation.

7. If any question should arise of billeting persons falling within the terms of this Circular within an administrative county, the County Council should communicate with the Senior Regional Officer of the Ministry of Health and request him to make arrangements with the billeting authorities for finding the necessary accommodation.

8. In establishing and operating the services referred to in this circular the Council will no doubt take advantage as far as possible of all voluntary assistance which may be available.

I am, Sir, etc.

[632]

GOVERNMENT EVACUATION SCHEME

September 7, 1939

VOLUNTARY HELPERS AND DOMESTIC STAFF

SIR,—I am directed by the Minister of Health to refer to paragraph 4 of Circular 1857, in which your Authority were informed that for voluntary helpers from the evacuation areas working full time in the reception areas, the sum of 21s. per week for each person is payable direct to the householder to cover board and lodging. It is for the Authority to place a reasonable interpretation upon the term "full time" having regard to the individual case.

Now that considerable numbers of helpers from the areas which have been evacuated are available in the reception areas, authorities will, no doubt, appreciate the importance of the assistance which these helpers can give as a supplement to the work being done by local volunteers, and will make them welcome. The helpers should be regarded as under the direction of the local authority in the reception area and, in order that they may be as usefully employed as possible, arrangements should be made to allocate and co-ordinate their services.

In paragraph 71 of Memo. Ev. 4 reference was made to the possible need in special circumstances for employing paid domestic staff. The need may arise, for example, where the householder is ill, or where the number of children received into a house is exceptionally large and the circumstances of the householder would appear to justify additional labour. In all cases where paid labour of a domestic character is employed, e.g., for cooking, cleaning, canteen or laundry work, the rate of payment should be the ordinary market rate prevailing in the neighbourhood. The labour employed should be under the general control of the Authority, who should ensure that this type of labour is employed only when absolutely essential. Local authorities will no doubt make every possible use of available voluntary assistance.

Where a voluntary helper from an evacuated area obtains paid employment in a reception area, the allowance of 21s. per week to the householder for board and lodging should be discontinued and replaced by a lodging allowance of 5s. per week.

I am, Sir, etc.

[633]

GOVERNMENT EVACUATION SCHEME

September 7, 1939

SIR,—I am directed by the Minister of Health to refer to paragraph 53 of Memo. Ev. 4 (Government Evacuation Scheme), which indicated that medical attention would be available if children fell ill.

The Minister has now, in exercise of the powers conferred on him by Defence Regulation 32 (6), and with the co-operation of the British Medical Association, made arrangements for the medical treatment of children who are being accommodated in reception areas unaccompanied by their parents. Under these arrangements, it will be possible for the householder who has charge of such a child, to call in, where necessary, any medical practitioner, and the charge for attendance will be dealt with under arrangements made by the British Medical Association with the Local Medical Emergency Committees.

The Minister would be glad if you would take such steps as may be appropriate by means of Billeting Officers, and otherwise, to make this known generally to householders in your area who have received unaccompanied children. The opportunity should be taken of impressing on householders the importance of not making unnecessary calls on the services of doctors.

In the case of a child accompanied by its parent, the responsibility for calling in and remunerating a doctor will remain with the parent.

I am, Sir, etc.

[634]

GOVERNMENT EVACUATION SCHEME

*Circular 1871**September 12, 1939*

SIR,—I am directed by the Minister of Health to communicate with the Local Authority on the question of further arrangements to be made in receiving areas under the Government evacuation scheme.

2. A number of suggestions as to action to be taken to promote the smooth working of this scheme have been made in Circulars and Memoranda issued in advance of the emergency, particularly in Circulars 1800 and 1841 and the Memoranda Ev. 4 and 5 enclosed with these Circulars. From the reports made by his Inspectors from time to time the Minister has been most favourably impressed with the initiative and enterprise displayed by receiving Local Authorities generally in this preparatory work and desires me to convey his thanks to those concerned.

3. The movement which has now taken place has been of an unprecedented character, and the Minister recognises that both for himself and for Local Authorities it is bound to raise a number of problems, varying from place to place in accordance with local conditions and the numbers and character of the evacuated persons. In particular the movement of adults to unaccustomed surroundings presents problems requiring a high degree of initiative.

In order to meet this difficulty he desires to leave as wide a margin of discretion as possible to Local Authorities within the general framework of the scheme and the Circular of the 25th August was issued with that object.

4. At the same time he feels that it will be for the benefit of receiving Local Authorities as a whole that he should from time to time make suggestions in regard to administrative action likely to promote the smooth working of the plan and the adjustment of difficulties which have arisen.

5. Arrangements have been made under which the Senior Regional Officers of the Ministry have been authorised to agree with Local Authorities for redistribution of evacuated persons as between individual districts in relation to accommodation available. The Minister is aware that a number of such adjustments have already been made and he has no doubt that this question of numbers can be adjusted satisfactorily in this way, particularly in view of the fact that the total number who have been evacuated is appreciably less than the maximum number for whom transport and reception provision was made.

6. In general it should be emphasised that apart from interchanges arranged by the Senior Regional Officers, changes of billets can only be made with the authority and approval of the Local Authority for the receiving area who will no doubt be willing to give full weight to representations in favour of exchanges which will facilitate the education of the children.

7. The Minister recognises that in a number of districts the numbers of particular groups who have arrived varied somewhat from the numbers anticipated by the Local Authority, with the result in particular that a number of householders who had volunteered for and were looking forward to the reception and care of school children were called upon to provide lodging for mothers and young children.

8. The Minister feels sure that both Local Authorities and the householders will appreciate that in a movement on this scale, especially as the numbers moving could not be accurately ascertained in advance, it has not been possible to plan transport movements so as to ensure that not merely will the numbers to be sent to a particular place be within the accommodation available but that the proportion of those in the two main priority groups will in individual districts be equal.

9. Now the process of settling in and adjustment between the old inhabitants and the newcomers must take place as quickly and smoothly as possible.

10. The main object of the evacuation scheme has been to secure the dispersal of children, accompanied in the case of the younger children by their mothers or some other responsible person from the crowded towns where the effects of air attack would be most serious.

11. This object has been secured and nothing should be done to undo this work. No doubt the strangeness of country surroundings has produced a desire in some mothers to return to their own homes and the Minister regrets to learn that a certain number of mothers and some children have made their own way back. Such action should be discouraged in every way possible. The fact that up to the present no air raids have taken place in the large towns does not affect the position. Where the Local Authority hear of any individuals desiring to return, the danger of this course should be emphasised : it should be made clear to the mothers that facilities for this movement have been given with the object of saving the lives of their children, that they will be taking a serious responsibility in regard to the lives of their children if they insist on returning to the towns which they have left, and that similar facilities for evacuation cannot be made available again.

12. There are no compulsory powers by which adult individuals can be prevented from governing their own movements but the Local Authority should not themselves give any facilities for enabling individuals to return.

13. For the school children who form a large proportion of evacuated persons the early resumption of school life will be the most helpful single action for the children and for the householders with whom they are billeted. Local Education Authorities in the receiving areas have been requested by the Board of Education to re-open their schools as soon as possible. The Minister has no doubt that by the time this Circular is received a start will have been made with the resumption of school life for both those normally resident in the receiving areas and those who have been evacuated and that the receiving authority will co-operate with the education authority in any way in their power.

14. The teachers and helpers who have accompanied the children will play an important part in the adjustment of the new conditions. It may well only be possible to run schools in shifts but other forms of activity possible under country conditions which will provide occupation for the children outside the homes in which they are billeted should be developed as quickly as possible. It must be emphasised that receiving householders have their own domestic duties and the care of their own children unreduced and the former indeed increased by the new arrivals. Every endeavour should be made to reduce the amount of time and labour which the householder who has to cope with these duties unaided is required to devote to her new charges, and the general objective should be to ensure that the householder is relieved of responsibility between breakfast time and tea time, if possible, by some form of organised care.

15. The teachers have been supplemented by the addition of substantial numbers of helpers who have volunteered to stay in the receiving districts and give full time service. In such a large movement there is ample opportunity for full time service of this kind and the receiving Local Authorities will satisfy themselves that an adequate use is being made of these services.

16. It will be necessary for reception authorities to make wage and salary payments to some of the helpers whom they have engaged or who have been transferred to them in the course of the evacuation scheme.

17. The position with regard to midwives is set out in detail in a Circular dated 24th August, 1939, numbered 99043/16/49 and addressed to all local Supervising Authorities.

18. The salaries of teachers will generally continue to be paid by the evacuating authority unless there has been a special arrangement with the reception authority. This matter is dealt with in the Board of Education Circular 1469, dated 19th May, 1939.

19. Appendices C and D of Memorandum Ev. 4 envisaged special arrangements for nursery schools and handicapped children under which the trained staff would be provided by the evacuating authority and the domestic staff recruited by the reception authority. In many cases domestic staff as well as trained staff have been sent by the evacuating authority and unless special arrangements have been made for payment by the evacuating authority, then the reception authority should pay the wages of these people.

20. Helpers who travelled with the school authorities have, in many cases, remained in the reception areas and a number of these

will be required to remain in the district. These helpers receive no payment of wages, but are billeted and receive board and lodging so long as they are rendering service as helpers. The reception authority should consider, in consultation with the teachers in charge of the children, the extent to which the services of the helpers are needed.

21. With regard to finance, I am to reiterate the previous statements which have been made, that expenses in connection with the Government evacuation scheme are not to fall on the reception authorities. Payments to helpers would be made by the reception authority under whom they work. The reception authority would for this purpose act as agents of the evacuation authority, who would recover the approved cost from the Government as part of their expenditure under the evacuation scheme.

22. Consideration will be given to cases in which damage has been suffered by householders and any complaints of this kind should be at once investigated and a record made.

23. The resumption of school life, with its arrangements for medical inspection, will provide opportunities for dealing with individual cases of children suffering from a variety of readily curable conditions which are not merely detrimental to the child's health and comfort but which unreasonably add to the inconvenience caused to the receiving householder.

24. It is important that there should be some machinery for dealing with similar conditions among the other priority groups where there is reason to suppose that these conditions exist. These conditions are no doubt exceptional when account is taken of the large numbers who have been evacuated, but the Minister recognises that in a limited number of districts the influx of persons in a dirty or verminous condition or suffering from skin trouble and similar ailments has presented a somewhat serious and distressing problem.

25. Each Local Authority will no doubt be aware from the reports of their billeting officers and from representations made by individual householders in which cases treatment is required, and the medical and sanitary staff available should make it their immediate business to take such action as is necessary with tact and firmness. If the existing staff of the Local Authority is insufficient for the purpose, additional officers should if possible be engaged and the increased cost of the service is a factor which would be chargeable to the evacuation account.

26. Explanation of the personal benefit to be derived from the removal of such conditions and of the necessity for preventing the spread of such conditions to houses in which those evacuated are being given a home will no doubt usually meet with a ready response.

27. In the event of refusal to co-operate in such action, the Local Authority may find it necessary to arrange for other accommodation to be provided in such cases, and also in the case of other persons whose behaviour renders their continued billeting on the occupiers of houses unreasonable.

28. The use of empty houses may well be the most suitable method of dealing with such cases. Power has been given to the Local Authority to requisition such houses for the purposes of the Government evacuation scheme and the necessary costs involved in requisitioning and fitting these houses with the equipment necessary for the daily life of the home will be a proper charge against the evacuation scheme,

though no doubt every endeavour will be made to obtain as much emergency assistance as possible by gift or loan.

29. When this action is taken, it will be necessary for the Local Authority, either directly or through some organisation such as Women's Voluntary Services, to undertake the general supervision and management of the home. The authorities may find it convenient to arrange for the services of trained social workers to be used for settling in on such occasions. The Minister would be prepared to agree to alternative financial methods as may be most convenient in local circumstances :—

- (1) If the Local Authority undertake simply the provision of premises and management, the necessary cost involved will be charged against the evacuation scheme. In that case the mothers housed there will be responsible for providing their own food.
- (2) If the Local Authority undertake to provide food as well as accommodation and supervision, it will be necessary to fix a charge to be payable by the mothers in respect of themselves and their children.

This method would appear to be applicable to cases where the character or habits of the evacuees render it unreasonable to billet them on private householders or, perhaps temporarily, until other arrangements can be made in individual cases where the relations with the housewife on whom they have been billeted have become so strained that an immediate change is necessary and suitable alternative billets cannot readily be found.

30. A distinction must, of course, be made between such cases and those of temporary difficulty caused by the inability of householder or evacuee to assimilate themselves immediately to the changed conditions. In the latter type of case the local Welfare Committees, which it has been suggested should be appointed (see paragraph 77 of Ev. 4) or the billeting officers, many of whom have no doubt remained in contact with individual cases, should talk over the difficulties with both parties and emphasize the necessity for give and take on both sides and get these day-to-day points of friction placed in a proper perspective in relation to the national issues involved.

31. To take two obvious points : the householder is not under any obligation to provide cooking facilities, but it will clearly conduce to the comfort of mother and child if such facilities are provided : the mother who has arrived with her child is not under any obligation to take any part in domestic work, except so far as concerns the rooms she occupies herself, but it will clearly add to the comfort and amity of the household and to her own self-respect if she co-operates to the best of her ability in those border-line functions which are inevitable where there are two families in one small house, and is scrupulously careful about the conditions of the rooms in which she lives.

32. In a number of cases it may be found most convenient for the householder and the mother to agree that the former should board, as well as lodge, the latter and her child or children. There is no reason why such arrangements should not be made. The terms for boarding in such cases would be a matter for agreement between the mother and the householder. Some guidance as to appropriate terms may be given in individual districts by the billeting authority.

33. In this connection the Minister thinks it desirable to point out (as the question has been asked by one or two Authorities) that,

when a mother has been billeted with children of school age and under school age, the payment to which the householder is entitled for lodging in respect of the school child is the same as that in respect of the younger child, 3s. per week. It would clearly run counter to the family arrangements for the mother to provide food for herself and the young child, while the householder boarded the school child. If, however, the family, having arrived as a unit, has to be split by the necessities of billeting, there is no objection to the school child being billeted in some other house on the basis of board and lodging, in which case rates of payment to the householder would be those paid for unaccompanied school children.

34. Where mothers who have been evacuated decide to return home but are prepared to leave their children in the receiving area, the Local Authority should endeavour to billet them on the basis of Form A with householders willing to receive them. This procedure should be applied to children under school age as well as to school children and it will be appreciated that in the former case it is of special importance to select billets where the children will receive the added measure of attention and care required by very young children.

35. The Local Authority will also consider whether it is possible to facilitate this work either by establishing a day nursery or a residential crèche if the numbers seem to require it. This appears to be a hopeful line along which to deal with some of the difficulties above mentioned.

36. A step which may in some districts relax the tension caused by the existence of two families in one house may well be the establishment of communal meals for mothers and young children, as well as school children. Reference was made in paragraphs 49-51 of Ev. 4 to the establishment of such meals for unaccompanied school children. Where the Local Authority consider this course desirable and can find an organisation able to undertake this work, the Minister would be prepared to agree to proposals for this purpose and to sanction reasonable expenditure. It would be necessary to ascertain in advance that there is a demand for this provision among the mothers and to make clear to them the charges which would be made. The charges should in general be on the basis of covering the running costs, such as food, staff and fuel.

37. The Minister recognises that the general question of the equipment required in various ways even for the immediate needs of such a large movement is one of great difficulty, and he desires me to express his high appreciation of the generous and untiring efforts which have been made by Local Authorities and householders in the receiving areas to meet these emergency needs. As the Authorities are aware, substantial quantities of blankets and camp beds are being provided by the Government and distribution to Local Authorities is being made as quickly as supplies can be produced by the manufacturers. While any general invitation to Local Authorities to ask for priority for their individual needs would under present conditions defeat its own object, the Minister would be prepared to take into account, in determining the order of distribution, any representations made by individual Local Authorities who were in immediate and urgent need.

38. The inadequacy of clothing and shoes will no doubt have become apparent in a certain number of cases. Local Authorities in the receiving areas will no doubt receive help in this direction as a result of the appeal which has been made and the Minister is in

consultation with organisations interested in this question with a view to a continuous effort for this purpose. It should be borne in mind, however, that the responsibility for clothing the children remains with their parents and that the large majority of parents will have no difficulty in continuing to provide all clothing necessary. The results of the appeal are intended for the benefit of the relatively small number of necessitous cases.

39. The Minister desires, both directly from Whitehall and through the Regional staff which is now in existence, to co-operate with Local Authorities in the difficult task which they have undertaken. It is his intention to issue from time to time Circulars dealing with various aspects of evacuation and he hopes in particular to issue a further communication dealing with medical matters. If the experience of Local Authorities suggests other lines of action which it is considered would be helpful in dealing with special problems, the Minister will be ready to consider proposals. It cannot be expected that all the difficulties created by this large movement will solve themselves at once. Tact, tolerance and understanding, as well as administrative enterprise and ingenuity, will be required.

40. The Minister is confident that the qualities which have been shown by Authorities to such a notable degree in the preparation and execution of the plans will continue in its day-to-day administration and he wishes to take this opportunity of expressing his very high appreciation of the admirable work and untiring efforts of the Local Authorities and their officers and to congratulate them upon the high degree of success which has attended those efforts in this unprecedented task.

I am, Sir, etc. .

[635]

GOVERNMENT EVACUATION SCHEME

September 20, 1939

ARRANGEMENTS FOR EXPECTANT MOTHERS—APPOINTMENT OF MEDICAL STAFF

SIR,—I am directed by the Minister of Health to refer to a letter written by Sir Arthur MacNalty, his Chief Medical Officer, to the Medical Officer of Health on 25th August last, with regard to the necessity that the arrangements made for the care of expectant mothers evacuated to your area under the official scheme should include an adequate service of Obstetric Officers.

In that letter it was made clear that in the Minister's view the responsibility for the arrangements should rest with the Local Supervising Authority. Under the general direction of the Medical Officer of Health the maternity work involved should be under the clinical supervision of an obstetric specialist or specialists, who should, if circumstances permit, be in charge of the maternity unit for complicated cases. These specialists should also act as consultants in all ante-natal cases of doubt or difficulty, in the treatment of women suffering from serious illnesses of pregnancy, in cases of complicated confinements and in the treatment of puerperal sepsis. The services of one or more Medical Officers with sound obstetric experience to act as residents in the larger improvised maternity homes and to assist the specialist in other directions might also be necessary.

It was suggested to the County Medical Officer that the Local Emergency Committee or Committees of the British Medical Association in the area should be consulted on the matter of personnel, and that if obstetric consultants of suitable standing were already employed by the Authority, their services should, in so far as their other commitments allowed, be utilised for this work. It might be necessary, however, to augment the list of consultants and of resident Obstetric Officers by other appointments from suitable practitioners, either from within or from outside the area.

This letter was written by the Chief Medical Officer before evacuation had been announced or had taken place. Local Authorities will by now have had time to consider their needs in this respect, and it is desirable that the Minister should be notified of their proposals.

With regard to the financial aspect, the Officers would be appointed and paid by your Authority, or by your Authority jointly with another Authority. The salary scales applicable to these appointments are based on those of the National Emergency Hospital Medical Service. Whole time obstetric specialists performing the duties indicated above will be paid £1,300 per annum, non-resident (the salary of a Group Officer). Where their services are not whole time the Officers will be paid a suitable proportion of that salary. The salary of Obstetric Officers (to act as residents either at the hospital unit for complicated maternity cases, or at an improvised maternity home) will be at the rate of £550 per annum (the salary of a Medical Officer under the Emergency Hospital Scheme).

Cases may arise where the proposed appointment will constitute either an increase in the duties of an existing part time appointment or the conversion of a part time into a whole time appointment.

In some cases two or more Authorities may combine and make a joint appointment, or the Officer's time may be devoted between surgical and obstetrical work. In such cases, the Authority will apportion the salary in respect of obstetric work to the cost of the maternity service. The authority will not themselves be expected to bear the additional cost of such appointments over and above their normal peace time expenditure.

I am to request that the Council should submit their proposals with regard to each category to the Minister for approval as soon as possible. The information should include the names, qualifications and present places of residence of the obstetric specialists in each category whom it is proposed to appoint, and whether they are to devote whole or part time to the work. If the latter, the proportion of their time which will be given to the emergency maternity service.

The Minister should also be informed what area is to be served by each Officer (whether the whole or part of your Council's area or possibly adjacent parts of more than one area). In the case of resident Obstetric Officers, the Authority should state whether they have been given outside duties in addition to the work in the maternity homes, and if so, details of these duties.

The appointments will be for six months in the first instance, and will be renewable according to circumstances.

I am, Sir, etc.

[636]

GOVERNMENT EVACUATION SCHEME

*Circular 1876**September 21, 1939*

SIR,—I am directed by the Minister of Health to refer to the Circular of the 12th September, 1939 (Circular 1871), and to state that he thinks it desirable to supplement the general suggestions made in that Circular with a few specific points which have already arisen in current administration or which are likely to emerge in the near future.

2. A number of letters have been received from Local Authorities as to the use of their billeting powers in connection with the Government evacuation scheme, and the position may be summarised as follows :—

(a) The question of members of the priority groups from evacuating areas who were on holiday in reception areas at the time when evacuation was directed was dealt with in the Ministry's letter of the 31st August. Local Authorities were authorised to billet such persons in the same way as those for whom official transport arrangements were being made.

(b) Members of the priority groups who were on holiday in a neutral area and remained there as a result of the broadcast announcement should not be billeted under the evacuation scheme in that area. If arrangements are made for their transfer to a reception area, with the agreement of the authority for that area, they may be billeted by that authority. Where school children are concerned, the most appropriate arrangement would be for them to be billeted in the district to which their school has gone. In cases where the school party may have been billeted at a considerable distance from the neutral area, there would be no objection to the billeting of the children in the nearest reception area, with the consent of the authority for that area. In the above cases the authority for the evacuating area would be able to advise whether the applicant was resident in the evacuable area, and in the latter case whether reunion with the school group was reasonably practicable.

Local Authorities in neutral areas will no doubt be prepared to assist in establishing contact with the evacuating authority or the appropriate reception authority.

(c) It has been arranged that for the purposes of billeting school children there should be a measure of reciprocity between England and Scotland. English school children on holiday in Scotland who remained there as a result of the Government broadcast will be billeted by the reception authority in Scotland if they produce a certificate that they come from an evacuable area, and similar arrangements will apply in the case of Scottish children who were on holiday in England. If such children were on holiday in a neutral area in Scotland or England, they may be billeted in the nearest reception area.

(d) Members of priority groups who had been sent to stay with relatives should not be billeted under official arrangements. In such cases it is a matter for settlement between the parties concerned as to the payment, if any, to be made to the relatives with whom

they are staying. If, however, parents of school children in such cases are prepared to transfer them at their own expense to the reception area to which the child's school has moved they can, with the consent of the receiving authority, be billeted under official arrangements in that district.

(e) Members of priority groups who have been evacuated under private arrangements should not be billeted under the official scheme. The Minister understands that in a limited number of cases members of these groups who left their own homes at the time of the evacuation scheme and found themselves in financial difficulties in receiving areas have been billeted in this way on the view that they were members of priority groups from priority areas. The Minister does not propose to question the action which has been taken by Local Authorities as a matter of emergency. It will be appreciated, however, that the Government evacuation scheme is not the appropriate machinery for dealing with the case of individuals who may elect from time to time to direct their own movements from one part of the country to another. Individuals who now make application for assistance to the receiving Local Authority without any evidence that they have been moved to the district under the Government evacuation scheme should not be billeted by the Local Authority. Arrangements for affording assistance to persons who are in need are available through the Unemployment Assistance Board, and applicants should be referred to the local offices of the Ministry of Labour.

(f) In supplementation of paragraph 33 of Circular 1871, it may be pointed out that when a mother is billeted along with a child of school age and a younger child and undertakes the feeding and care of both children, the appropriate billeting form in such cases is Form B, and the Unemployment Assistance Board will in such cases pay allowances in respect of both children where the mother is entitled to assistance from the Board. If, however, the mother is prepared to give full time assistance as a helper under the direction of the reception authority, there would be no objection if the householder agrees to the billeting of both mother and child on the basis of Form A and Form C.

3. The Minister thinks it desirable to point out that the railway facilities available for the purpose of the scheme must be limited to arrangements approved by him and the Ministry of Transport. It is not possible for the railway companies to accept as a part of the scheme either individuals or parties travelling outside the approved arrangements, and evacuating authorities are not authorised to issue vouchers in respect of such cases, except in so far as they may be required for the approved arrangements described in the following paragraphs, no travelling vouchers should be issued by evacuating authorities.

4. Following upon the recent arrangements made by the evacuating authorities for the further registration of school children, the Minister will authorise arrangements for the inclusion in the scheme of school children so registered. For this purpose the following procedure should be adopted :—

(a) In the Metropolitan area, as in the case of the previous scheme, the London County Council have expressed their readiness to co-ordinate the arrangements with the transport authorities,

and on the present occasion this co-ordination can be made applicable to those authorities which were added to the original plan at a later date (i.e., those generally known as Plan 3 Authorities).

The Education Officer of the London County Council will communicate with the responsible officers of the authorities concerned as soon as practicable.

(b) Elsewhere the Senior Regional Officers of the Ministry have been authorised to make the necessary arrangements in consultation with the Railway Officers and, where necessary, with the Traffic Commissioners, and with the evacuating and receiving authorities.

(c) In each case the receiving authority will be consulted by the evacuating authority as to the adequacy of accommodation and their agreement obtained before any further parties are despatched.

It may be stated, for the information of the receiving authorities, that the numbers who have registered with the evacuating authorities under this supplementary scheme are likely to involve only small additions in individual receiving areas and that the parties to be sent will consist entirely of unaccompanied school children.

(d) Before the despatch of any such parties the evacuating authority are requested to carry out a medical inspection and, where necessary, efficient treatment of all children to be included in the parties. No child who is not free from infection or disease should be included in the party unless arrangements can be made for its reception in an institution or other place where it can be attended to until free from any such disease or infection.

5. Representations have been made in a number of cases that teachers who have accompanied the school children and whose presence in the receiving areas is an essential condition of success are being charged unduly high prices for board.

As the authority are aware, the arrangement under the scheme is that householders who provide accommodation for teachers are only required to provide them with lodging (with the use of the water supply and sanitary conveniences) and the price payable for this accommodation under the billeting notice is at the rate of 5s. per week for each person.

In the case of teachers, it is no doubt usual that the arrangement actually made will be one for the provision of board as well as lodging and when such an arrangement is made the terms for board are, under the present rules, a matter for agreement between the teacher and the householder.

The Minister does not desire to disturb this opportunity for voluntary agreements inasmuch as a measure of elasticity possesses advantages in meeting the varying requirements of individual cases, but it is necessary to ensure that accommodation on reasonable terms is secured.

The Minister has no doubt that the Local Authority will look into any cases which are brought to their notice. They will have in mind the parallel that under the regulations as they stand, the payment authorised to householders who receive voluntary helpers from the evacuation areas working full time in the reception areas is at the rate of 21s. per week to cover board and lodging, and the Minister has no doubt that satisfactory arrangements will be made without the necessity for any variation in the Regulations.

I am, Sir, etc.

[637]

RECOVERY OF COST OF BILLETING SCHOOL CHILDREN

*Circular 1877**October 4, 1939*

SIR,—I am directed by the Minister of Health to refer to Defence Regulations 22 (5) and 32 (6), relating to the recovery of sums paid by the Minister in respect of the accommodation and medical treatment of persons transferred from one area to another in pursuance of plans made by His Majesty's Government as contemplated by Section 56 of the Civil Defence Act, 1939. These Regulations empower the Minister to recover the sums in question from the person for whose accommodation or treatment arrangements have been made, or from his personal representative, or any person liable to maintain him.

2. As indicated in paragraph 11 of Circular 1800, of the 1st May, 1939, it has always been contemplated that some contribution towards the cost of the Evacuation Scheme will be called for where the family circumstances justify such a course. The recovery which the Government have in mind is limited to the expenses, other than travelling expenses, incurred in connection with evacuated children who have been billeted under the Government Scheme and for whose board, lodging and welfare the householder who receives them is responsible.

3. The services rendered to these children under the Government Scheme comprise board, lodging and general supervision, together with any necessary medical attention, and under the scale of billeting fees at present in force the average cost of these services is approximately 9s. a week per child. It will be generally agreed that parents should in war, as in peace, accept the primary responsibility for the maintenance of their children, and the Government are confident that a substantial number of parents will be both able and willing to meet the whole of this charge. On the other hand, they recognise that the provision of these services will not necessarily result in a corresponding relief to the family budget, because in many cases rent and other overhead expenses will remain unaltered. They have accordingly reached the conclusion that on the basis of the present billeting fees a contribution of 6s. a week in respect of each child, roughly representing two-thirds of the cost, should be regarded as the standard charge repayable by the parent or other person liable to maintain the child. Parents or other persons liable should be invited to pay the full charge of 9s. if they are in a position to do so, but a payment of 6s. or upwards is to be treated as a full discharge of the legal obligation.

4. In the case of persons in receipt of unemployment assistance or public assistance, there will be a suitable adjustment of the allowances to meet the altered circumstances of the family, and the Government have accordingly decided that no recovery should be made from these persons. In all other cases the parent or other person liable to maintain the child should be called upon to pay a contribution of 6s. per child, or such smaller amount as may be appropriate to his financial resources.

5. The Minister has given much consideration to the question how the assessment and collection of these sums can best be achieved. He realises that the task is one of great magnitude and will throw a heavy burden on the staffs of the county and county borough councils of the evacuation areas. He has come to the conclusion, however, that there is no effective means of securing the recovery of these sums except by making use of the skilled services of officers who have had long experience

in work of this kind, and he has accordingly decided in exercise of the powers conferred on him by Section 56 of the Civil Defence Act, 1939, to direct the Council to assist him by instructing their appropriate officers to undertake on his behalf the necessary work of assessment and recovery.

6. In normal circumstances the amount recoverable should be calculated on the following basis :—

- (a) The income to be taken into account is the net income (i.e., the total wages and other income reduced by the amount of State insurance contributions and travelling expenses to and from work) of the parent or other person liable.
- (b) From this net income the following amounts should be deducted :—
 - (i) Net rent and/or other outgoings in respect of the house.
 - (ii) The following sums for the personal needs of the head of the household, including those of his wife, of any dependent adult, and of dependent children under 16 remaining at home as part of the household :—
 - 25s. a week for a father and mother ; or
 - 15s. a week for a sole parent.
 - 10s. a week for a dependent adult of 16 or over,
and
 - 6s. a week for a dependent child under 16.
- (c) A sum equal to one-half of the balance should be considered as available for repayment of billeting charges and accordingly the amount charged will be this sum or a sum of 6s. a week for each child billeted under the Scheme, whichever is the less.

It should be clearly understood that the parent of an unaccompanied child billeted under the Government Scheme remains responsible for the needs of the child (including clothing, boots, etc.) other than the child's board, lodging and general supervision. This is one of the considerations which have been taken into account in deciding that one-half only of the balance of income is to be treated as available for repayment of billeting charges.

7. The foregoing rules are necessarily of a general description, and the Minister hopes to supplement them shortly with more detailed statements on a number of points of practical administration. It is intended that these rules, with such supplementary instructions as the Minister may from time to time issue, should be applied in normal cases, but the Minister desires that the responsible officer should exercise a reasonable measure of discretion, and where there exist burdens of an exceptional kind, such as payments towards the cost of maintaining a relative in a public institution or sums payable under order of the Court, or, in the case of a widower, any necessary expenses in obtaining domestic help, account may properly be taken of them. The Minister is confident that the officers of the Council to whom this work is assigned will be able to deal with the great bulk of their task satisfactorily on the lines suggested above. He recognises, however, that there will be exceptional cases in which the parent might justifiably question the decision of the officer who assesses the amount of the contribution, and in order to meet these cases he proposes to nominate independent persons of standing and of experience in matters of this kind to act as

referees. The recommendations made by these referees will be treated as final. The Minister reserves the right himself to refer to these referees cases in which questions of principle are involved. The Minister proposes to deal with the details of the procedure for referring cases to these referees in the further instructions referred to above.

8. In the case of schools in respect of the maintenance of which grant is paid to the Council by the Board of Education, the names and addresses of the parents should be taken from the nominal roll prepared by the Education Committee of the Council for the purpose of the evacuation. In the case of all other schools whose children have been evacuated and billeted under the Government Scheme, the names and addresses of the parents should be obtained from the school authorities.

The Council may also be aware of the names and addresses of parents of children who fall within the general class referred to in paragraph 2 but who, because they were on holiday at the time of the outbreak of war or for any other reason, are not included in the Education Committee's roll. If so, they should apply the procedure outlined in this Circular to the parents of such children.

9. It is recognised that the school lists will be to some extent out of date and that cases will occur in which the Council's officers are informed by the parent that owing to the return of the child to his home, or for some other reason, he is no longer a charge on the Evacuation Scheme. So far as necessary this should be verified by reference to the Authority of the reception area and the demand on the parent withdrawn or adjusted accordingly.

10. It is not proposed in connection with the present Evacuation Scheme that any attempt should be made to recover in respect of a period before the parents are notified of their obligations. The liability for payment of contributions will commence on the 28th October, and the Council are requested to give the necessary notice to parents as far in advance of that date as possible. For this purpose they should immediately take the necessary steps for the preparation of the lists of names and addresses. In the case of children evacuated under any further Scheme of evacuation, the system of recovery will operate from the date of evacuation.

11. It is proposed that the notice to parents referred to in the preceding paragraph should be given by the Council's sending to each parent a copy of a letter which the Minister will himself address to the parent, together with a covering letter from the Council and a form for use in obtaining the necessary particulars. A copy of the Minister's letter and a model covering letter and form will be sent to the Council in the course of the next few days. A bulk supply of the Minister's letter will be sent at a slightly later date.

12. The Council should keep a separate account and suitable records of the amounts collected on behalf of the Minister in accordance with the terms of this letter. A payment on account should be made at the end of each of the first two months of each quarter, representing the approximate amount collected in that month, and after the end of each quarter (31st March, 30th June, 30th September and 31st December) the balance, representing the amount collected during the quarter less the estimated cost of collection and the monthly payments already made, should be remitted to the Ministry of Health with a statement showing how the amount is made up.

I am, Sir, etc.

[638]

GOVERNMENT EVACUATION SCHEME

*Circular 1882**October 2, 1939*

PUBLIC HEALTH SERVICES IN THE RECEIVING AREAS

SIR,—I am directed by the Minister of Health to say that since the Government's plans for evacuation came into operation he has received from local authorities and others a number of enquiries as to the provision of medical services for the evacuated priority groups which appear to call for some further guidance.

2. Local authorities will remember that throughout the evolution of the evacuation plans emphasis was laid upon collaboration and co-operation between evacuating authorities and the authorities of the reception areas where in the services normally provided for their evacuees would, so far as possible, have to be carried on. The Minister is sure that, while the scheme remains in operation, evacuating authorities will continue to provide every assistance to receiving authorities in meeting the heavy burdens which have been thrown upon them.

3. Further mention of some of the financial implications arising from the transfers of population which have taken place under the scheme also seems necessary at this stage. While on the one hand it is made clear in Circular 1800 that it is not intended that any additional burden is to be placed on local rates in consequence of the operation of a plan of evacuation it is also made clear that a final adjustment will require to be made which will take account of the position of the Government and local authorities having regard *inter alia* to the direct and indirect effects of evacuation. Evacuation does not, and cannot, mean that evacuating authorities are to be relieved of all existing burdens in relation to their transferred populations merely because services are being provided for them, for the time being, largely through the agency of the authorities of reception areas.

4. Generally, the Minister has no doubt that local authorities in receiving areas have placed the medical and other facilities of their health services at the disposal of evacuated persons equally with the normal population of their districts. In his view the health arrangements for evacuated persons should be based on this principle, with the special adjustments or additions called for in the circumstances. In the following paragraphs endeavour is made to give guidance to local authorities on special aspects of the problem.

(i) Personnel

5. The Minister appreciates that the existing health services of local authorities in receiving areas cannot usually be expected to serve a substantially increased population without additional personnel. Evacuating authorities will realise the necessity for doing their utmost to release the maximum possible number of medical officers, dentists, nurses, school nurses, midwives, health visitors, etc., including the staffs of fever and other hospitals, in order to relieve the heavy tasks of receiving authorities and to enable them to meet their new obligations.

6. The Minister desires therefore that where evacuating authorities are informed by receiving authorities of their need for supplementary staff they should release such staff as may be practicable, at least as a temporary measure and subject to recall, if and when circumstances

in the evacuating areas require it, for service in connection with the treatment of casualties or otherwise. Such staff would of course remain in the service of the evacuating authority. In selecting officers for service outside their area reasonable consideration will no doubt be given to the circumstances of particular individuals. The Ministry's Regional Medical Officers will be available to advise evacuating authorities with regard to the co-ordination of demands made on them by different receiving authorities.

7. In some cases evacuating authorities may find it convenient to continue by arrangement with receiving authorities to pay the salaries of the staff supplied. Where this is not arranged the receiving authority should then meet the payment of salaries in the first instance as an evacuation charge to be reimbursed to them by the Ministry and allocated finally between the Exchequer and the evacuating authority.

8. In the case of medical staff, the Minister suggests that where no direct arrangement between the receiving and evacuating authorities has already been made, receiving authorities should make their requirements known to the Secretary of the Central Medical War Committee, British Medical Association House, Tavistock Square, London, W.C.1, and that evacuating authorities should supply the Committee with the names of those medical officers whom they would be prepared to release temporarily for service under other authorities. Under this procedure, it would fall to the receiving authorities to pay the salaries, subject to reimbursement as in the preceding paragraph.

9. In the case of nursing personnel, a possible source of supply which receiving authorities should consider as a temporary measure is the nursing staff of hospitals in their own areas which have been earmarked for dealing with casualties. At times when the staff is not fully occupied it will, no doubt, be possible for a receiving local authority in consultation with the Ministry's Hospital Officer for the region and the authorities of the particular hospital to arrange for a proportion of them to take part in nursing work among the evacuated population until it may prove necessary to recall them.

10. For this purpose it is suggested that the receiving authorities should furnish the County Medical Officer of Health with an estimate of their total requirements in additional personnel indicating to what extent assistant nurses or nursing auxiliaries could be employed in place of trained nurses, and the County Medical Officer would then decide, subject to the approval of the Hospital Officer, from what hospital personnel could most conveniently be obtained.

11. Personnel seconded from hospitals in this way may continue to be paid by the authorities of the hospitals supplying them and the cost included in the claim for the expenses of providing the casualty service.

12. Where under any of the foregoing arrangements additional staff are to be paid by the receiving authority, thus involving eventually a charge on the evacuation account, proposals will require the Minister's approval and should be submitted in the first instance to the Ministry's Regional Medical Officers. The same applies to any expenditure to be incurred by local authorities on the general expansion of their health services to deal with members of the evacuated priority groups as recommended in the later paragraphs of this Circular.

13. Where it is necessary to employ trained nurses or nursing auxiliaries directly or through the District Nursing Association either for the purpose of supplementing the staff of district nurses or to

provide adequate staffing for the emergency accommodation described below, the rates of pay prescribed for the Civil Nursing Reserve will be applicable. The extra nurses or auxiliaries required should be obtained from the register of the County Medical Officer.

(ii) *Medical Arrangements for Unaccompanied School-children*

(a) THE SCHOOL MEDICAL SERVICE

14. In their Circular 1469 of the 19th May, 1939, the Board of Education outlined the measures which should be taken by local education authorities in the reception areas to develop the School Medical Service and to apply its resources as speedily as possible to meet the needs of the increased school population. Arrangements for the prevention and treatment of contagious diseases such as Scabies, Impetigo, Ringworm and Pediculosis have been found necessary by many local authorities. The Minister and the Board of Education have been glad to note the emergency measures which have been taken by these authorities. Such provision will no doubt continue to be necessary, and it is hoped that local education authorities through their medical staffs will make every effort to put into operation the arrangements as a whole which have been suggested to them by the Board of Education. For this purpose it is essential that they should receive all possible assistance from the local education authorities of areas which have been evacuated.

15. The Minister and the Board accordingly desire to emphasise that wherever possible authorities in the evacuated areas should place at the disposal of the authorities in the reception areas any of their School Medical Officers who can be spared. It is also important that school nurses in the service of evacuating authorities should not be diverted to other duties if there is need of their services in the reception areas. The authorities in the reception areas should at once make their requirements known to the evacuating authorities, who should ensure that a proper proportion of their school nursing staff are made available for service in the reception areas.

(b) DOMICILIARY TREATMENT OF UNACCOMPANIED SCHOOL-CHILDREN

16. In co-operation with the Central Medical War Committee of the British Medical Association arrangements have been made for the domiciliary treatment by general practitioners of unaccompanied school-children in the reception areas. The treatment will be given without charge to the householder with whom the children are billeted, and the local authority should make these facilities known to householders in their area. The practitioner will look for payment to the Local Medical War Committee and not to the local authority.

17. The increase of the child population in the reception areas will also make increased demands on the personnel of the District Nursing Associations. So far as the Associations require to be augmented by the recruitment of trained nurses and nursing auxiliaries the increase may properly be provided for by the appropriate local authority as an evacuation charge which will be reimbursed to the authority.

18. Similarly, where a local authority are satisfied that additional expenditure is necessarily incurred by a District Nursing Association (after allowing for contributions or other payments received) in extending its services to members of the evacuated priority classes, the

authority may properly contribute proportionately to the funds of the Association, and this expenditure will rank as an evacuation charge.

(iii) *Medical Treatment for Mothers with Young Children*

19. Mothers with young children below school age who require domiciliary medical treatment for themselves or their children and who are able to pay for the attendance of a local doctor should do so.

20. When medical attention is required at home, where the mother is without sufficient means to provide it, the District Medical Officer should be called in. The normal channel for obtaining this assistance, is by application to the local Relieving Officer. Necessitous persons who in their home areas would have no difficulty in knowing where and how to obtain the assistance available through officers of the Public Assistance Authority may be at a loss in new surroundings. It is therefore important to ensure that the health visitors and district nurses who will be in touch with the mothers and young children should be familiar with the situation of the offices or residences of the Relieving Officers and District Medical Officers as well as with any special institutional facilities of the local health authorities, so that they may be able to advise mothers on this matter.

21. In occasional cases where domiciliary medical attendance is desired the illness or disability may nevertheless prove to be such as will be appropriate for treatment under one of the special institutional services maintained by local authorities under their Public Health powers, such as the tuberculosis service maintained by County and County Borough Councils or the facilities for orthopaedic treatment available in many areas through County and County Borough Councils and also in the case of children below school age through the Councils of those non-County Boroughs and Urban and Rural Districts which are Welfare Authorities. Local authorities should take steps in these cases to recover from the mother or her husband such part of the cost of treatment, etc., as may be reasonable in the circumstances, in accordance with the normal practice regarding inhabitants of the district.

(iv) *Maternity and Child Welfare Services*

22. It is desirable that adequate arrangements should be made by local authorities in receiving areas who are Welfare Authorities to extend (where possible with the assistance of the evacuating authority) the welfare facilities already provided for their own population to mothers and children under five years (not being educated in schools recognised by the Board of Education) who are sent into their areas under the Government Scheme. This applies to health visiting, to infant welfare centres to ante and post natal work, and to local arrangements for dental treatment and the provision of cheap milk or meals for expectant and nursing mothers and young children. The Minister, as already stated, looks to evacuating authorities to give every assistance in their power by releasing the maximum possible number of personnel (and where necessary and practicable by lending equipment, etc.) for work in the receiving areas. Where, notwithstanding any such assistance local authorities consider the appointment of additional staff to be necessary, they should submit their proposals, as suggested above, to the Ministry's Regional Medical Officer in the first instance.

23. If additions to a Welfare Authority's health visitor staff are required, and the need cannot be met by transfer from the staff of

the evacuating authority, it is suggested that the authority should communicate in case of difficulty with the Secretary of the Women's Public Health Officers' Association, Islington Mill, near Alton, Hants.

24. Special considerations arise with regard to the arrangements made by Welfare Authorities for the supply of milk and meals to expectant and nursing mothers and children under school age. The Minister regards it as essential that the facilities of this kind normally provided in the area of each receiving authority should be available for the new residents evacuated under the official scheme as they are for the ordinary population, and he trusts that all Welfare Authorities in receiving areas will be prepared to conduct their arrangements for the provision of cheap milk or meals on this basis, including any arrangements which may hereafter be approved by the Minister under Circular 1840 dated 2nd August, 1939.

25. It is suggested that the same conditions should, in general, be applied to evacuated persons as are applied to persons normally resident in the area concerned.

(v) *Arrangements for Expectant Mothers and Young Children*

26. The provision of lying-in accommodation in emergency maternity homes has been the subject of detailed consideration between Medical Officers of Health and the medical advisers of the Ministry and the many difficult problems involved are being met locally with great resource and good will. There are, however, certain points on which further guidance may be helpful.

(a) BILLETS FOR YOUNG CHILDREN

27. The question, for example, of the arrangements to be made for the care of the young children of mothers who leave their billets for confinement may raise difficulties. It will frequently be possible for the mother to arrange with the householder for the care of her child or children while she is away; and where it can be arranged this is probably the best solution. (In these circumstances it will be in order for the billeting officer to issue a Form A to the householder in respect of the child or children during the period of the mother's absence, in substitution for the Form B previously in force. Arrangements should be made for cancelling the Form A and issuing a new Form B as soon as the mother returns.)

(b) RESIDENTIAL AND DAY NURSERIES

28. Cases may arise, however, where billets are unsuitable for this purpose and where it may be difficult to find any householder in the district willing to take care of an additional small child even for a short period. To meet this difficulty the possibility may be considered of providing residential nurseries for pre-school children in private houses offered for the purpose. If necessary empty houses can be requisitioned by the local authority.

29. It may also occasionally be thought desirable, especially in urban areas, to provide a day nursery for young children whose mothers wish to obtain some employment or for those children who are for special reasons billeted without their mothers, if the householder finds difficulty in looking after them during the day time. Mothers or householders making use of such accommodation will normally be expected to make a reasonable contribution towards its cost.

30. The appendix to this Circular deals with the provision of these

day and residential nurseries. It is essential that nurseries whether day or residential should be small in order to minimise the danger of infection among groups of very young children. This danger is of course increased when individual children are rapidly changing, even though total numbers remain constant.

31. The Minister regards it as desirable that the Authority responsible for this type of provision should be the Welfare Authority for the area as these nurseries should be conducted as part of the Maternity and Child Welfare service under the close supervision of the Medical Officer of Health and his staff.

(c) MOTHERS' HOSTELS

32. A closely related problem is that of providing suitable billets for women immediately before admission to or discharge from an emergency maternity home. In some areas difficulty has arisen in finding an adequate number of suitable billets within easy reach of the maternity home. In others it has been found that the billets occupied by expectant mothers before their confinement were unsuitable for the return of the mother with her baby. In such cases the establishment by the Welfare Authority of Hostels within reach of the maternity homes may be considered.

(d) STAFF

33. As it may not be easy to obtain suitable or adequate staff the assistance of the women themselves in the work of the Hostel might be considered in planning its organisation. Local authorities will be glad to know that Women's Voluntary Services have offered to assist in supplying matrons and whatever additional staff may be necessary and Welfare Authorities will no doubt get in touch with the regional office of the W.V.S. where they propose to make such provision. The practicability of making arrangements such as have been suggested must of course be left to the discretion of local authorities in consultation with the Ministry's Regional Medical Officers.

(e) CONFINEMENT IN BILLETS

34. In cases where, by arrangement with the householder, confinement may properly take place in billets, those mothers who can afford to do so should be advised to arrange with the householder for their maintenance during confinement. Women who are insured or whose husbands are insured under the National Health Insurance Acts will normally be in receipt of maternity benefit, which with the addition of the allowance made to them by their husbands will enable them to provide for their maintenance and to contribute to the cost of the attendance of a midwife. In a circular letter of the 11th September, 1939, the Minister has already authorised an increase of the normal lodging allowance of 5s. a week payable to the householder to 10s. a week during the lying-in period.

35. Where an expectant mother is not entitled to maternity benefit and is unable from her own resources to arrange for her maintenance during confinement she will be eligible for an allowance from the local office of the Ministry of Labour, and no case should arise, therefore, in which her incomings are insufficient to provide for her maintenance in her billet during confinement and lying-in.

(f) RECOVERY OF COST

36. Where, however, confinement takes place in a Maternity Home or Hospital arrangements should of course be made by the Welfare Authority to recover the cost or such proportion of the cost as the woman's means allow. Most authorities have income scales already in force for their own areas which could be applied in the case of evacuated mothers; in other cases they will no doubt be guided by the practice in the area from which the woman came, to which also reference should be made in cases of difficulty as to the amount to be recovered from the mother.

37. It should also be remembered that where Hostels for mothers are provided by the Welfare Authority, the women should be expected either to board themselves or to contribute in due measure to the cost if feeding arrangements are made by the authority as part of the organisation of the Hostel.

(vi) *Additional Hospital Accommodation for Infectious Diseases*

38. The need for additional accommodation for infectious diseases both notifiable and non-notifiable is apparent. General advice on this subject was contained on pp. 2-4 of a Memorandum on the Government Evacuation Scheme sent to Medical Officers of Health of County and County Borough Councils by the Chief Medical Officer of the Ministry on the 28rd August last. In the Ministry's Memorandum Ev. 5 issued with Circular 1841, it was suggested that the Medical Officers of Health of the receiving district authorities should discuss this question with the County Medical Officer, and the aim should be to make the maximum use of all available resources by pooling or other methods. The need for making additional provision should be regarded as urgent and in general can probably best be met by the adaptation and equipment of empty houses. For this purpose proposals should be submitted in the first instance to the Ministry's Regional Medical Officers. Where it has not proved practicable to come to a satisfactory arrangement with the owner of a property, recourse may be had to the requisitioning powers delegated by the Minister to the Clerks of local authorities.

39. In general the demands of urgent government work on the building trade will make it impracticable at present for additional emergency accommodation to be provided by way of huts or similar temporary buildings specially constructed for the purpose. Cases may arise, however, where local supplies of labour and of materials may be readily available, and in such cases the Minister would be prepared to consider the approval of this type of provision where his Regional Medical Officer is satisfied that it is necessary and suitable.

40. When there is a Joint Board in existence, the duty to provide additional accommodation rests upon the Board. Arrangements will, no doubt, be made for the appropriate proportion of the approved expenditure incurred by the Board to be included in the evacuation accounts of each of the constituent authorities as a claim for reimbursement from the Ministry.

41. It is recognised that the staffing of such emergency accommodation presents special difficulties, and it may be necessary to effect some redistribution of the trained nursing staff between existing institutions and the new emergency accommodation, and to supplement the trained staff from the Civil Nursing Reserve. It is essential, in

view of the importance of specially trained staff for this work, that evacuating authorities should also assist to the best of their ability by releasing nurses with experience of work in fever hospitals for service in the receiving areas in accordance with the general recommendations contained in paragraphs 3-10 of this Circular.

42. Arrangements are being made for the central purchase of furniture and equipment suitable for emergency additional accommodation provided by local authorities. Medical Officers of Health of local district and town councils should make their needs known to the County Medical Officer for transmission to the Ministry.

(vii) *Provision of "Sick Bay" Accommodation for Minor Illnesses*

43. Wherever practicable, cases of minor illness should receive medical or nursing attention in billets. The circumstances of the household may, however, sometimes render it undesirable from the point of view both of the householder and of the patient that the child should remain in the billet. To meet this difficulty the Minister is prepared, where the Medical Officer of Health of the receiving district authority after consultation with the County Medical Officer has satisfied the Ministry's Regional Medical Officer of the need, to authorise the provision of accommodation in separate houses for children suffering from minor illnesses or convalescent from more serious illnesses who cannot properly be cared for in their billets. It may be possible to provide most of the relatively simple equipment required with the help of local voluntary effort, and in many areas Women's Voluntary Services have expressed their readiness to help with the staffing of the houses. Local authorities' proposals should be submitted to the Ministry's Regional Medical Officers in the first instance. Where the receiving district authority agrees, it will be in order for the County Council to be responsible for providing and maintaining the sick bay.

44. It should be recognised that the establishment of sick bays for cases of minor illness requires careful medical control, and it is important in making arrangements of this kind that each case of minor illness should be admitted only on the recommendation of a medical practitioner, that the practitioner should continue to attend regularly at the sick bay, and that the staff should include at least one trained nurse.

45. It may in general be found most convenient to arrange for sick bays to be provided in occupied houses, especially since it is desirable, in order to minimise the risk of infection should a patient incubating infectious disease be admitted, that the number of children in any one should not be large. The authority would reimburse to the householder the additional cost of any boarding arrangement that may be made with him for conducting the sick bay, and would of course undertake the payment of any additional domestic or nursing staff required if the householder so desired. Where such an arrangement cannot be made by agreement, or where the use of an occupied house would seem likely to the authority to be unduly costly, it would be best for the authority to obtain and equip an empty house, staffing it with voluntary help so far as possible, with of course the addition of at least one trained nurse, and themselves to board the children. Whichever method is employed it will be necessary for the billeting officer to ensure that the billeting allowance is not paid to the householder with whom the child is normally billeted during the period when the child is in the sick bay.

(viii) *Emergency Hospitals Scheme*

46. The following paragraphs are quoted, for the information of all local authorities concerned, from the Memorandum sent by the Chief Medical Officer of the Ministry to the Medical Officers of Health of County and County Borough Councils in receiving areas on the 23rd August last :—

“The existence of the hospital accommodation which is being built up under the Government's emergency hospital scheme is a factor which should not be ignored in the consideration of this matter of additional accommodation. While there must not, of course, be any conflict with the discharge by the casualty hospitals of their proper functions, the extent to which any accommodation would be available for other purposes would necessarily depend on the number and nature of casualties and the extent to which a particular hospital had to be brought fully into use. It is not intended that any provision not immediately required for casualties should be left unused while cases of serious illness requiring hospital treatment are unprovided for. In short, all the available hospital accommodation is designed to be pooled and used to the best advantage to meet the individual needs of the area whatever they may happen to be.”

47. Under the Emergency Hospitals Scheme the Government are prepared to pay receiving hospitals for the cost of providing in-patient treatment for children who have been evacuated unaccompanied by an adult on the same basis as for casualties. (See para. 7 of the Ministry's Circular 1874 of 20th September, 1939.)

(ix) *Difficult Children*

48. In paragraph 75 of Memo. Ev. 4 it was suggested that special arrangements and supervision would be necessary to relieve the individual householder of the unreasonable burden of the small proportion of evacuated children in whom difficulties of behaviour make them unacceptable in ordinary billets, and it was suggested that the local authority should consider whether such cases should not be accommodated in places, e.g., empty houses equipped for the purposes, where the accommodation would be of an institutional character. It may be useful to quote for the information of local receiving authorities who are not local education authorities the section from the Board of Education Circular No. 1469 which deals with the same question :—

“Accommodation of hostel type in an empty house or other suitable accommodation with a staff experienced in child guidance methods is desirable for these problem children. The Mental Health Emergency Department (24, Buckingham Palace Road, London, S.W.1 (Victoria 7874/5)), are compiling a register of workers experienced in such work, and are also arranging a clearing house for information on cases to which school Medical Officers and social workers can apply. It may be possible to arrange for visits of a child psychiatrist to selected centres.”

49. Local education authorities will no doubt be aware that there are in the country certain special schools to which with the agreement of the evacuating local education authority cases of difficult behaviour may be sent. The Board of Education will be prepared to advise

local education authorities in receiving areas of the names of suitable special schools which are able to admit such cases.

I am, Sir, etc.

APPENDIX

DAY OR RESIDENTIAL NURSERIES IN EMERGENCY

1. Day nurseries for billeted children will only be practicable in the more populous districts since even if suitable premises can be found in rural areas, there will usually be difficulty in making arrangements for taking children to and from the nursery.

2. The general features of day and of residential nurseries, both of which are intended primarily for the care of healthy children, are broadly similar but comparatively greater accommodation and more numerous staff, some of whom should be resident, are required in the latter.

3. It may be found to be desirable to establish two types of residential homes for young children in the reception areas, but Children's Homes already established should be utilised as far as possible.

4. *The short-stay home* will be designed for the care of young children during the lying-in period of the mother or when she is ill. The size of the home will be determined largely by the accommodation and trained staff available, but it should not have more than twenty-five children as a maximum and should preferably be much smaller. The constant change of children in residence will make great demands on the staff, on account both of the increased risk of infection and of the unfamiliarity of the children with their surroundings.

5. The Matron should be a State Registered Nurse and should have an Assistant with nursing or day nursery training. There should be one additional trained Assistant to every eight children under two years of age, and similarly to every fifteen children over two years of age, preference being given to those with nursery training. In addition, untrained assistants will be required in the proportion of one to ten children. Domestic staff will also be required.

6. *The long-term home* will be for the care of children apart from their mothers, possibly for the duration of the war. Infants under nine months of age should not ordinarily be admitted. The number of resident children should not exceed thirty-five and preferably should be much smaller. Staffing should be considered on the same general basis as that suggested for short-stay homes.

7. The buildings selected should have gardens. If used as day nurseries they should be within reasonable reach of the houses in which young children are billeted and the houses in which the staff might possibly be billeted. There should be an adequate and pure water supply (including means of providing a good hot-water supply) and satisfactory drainage and sewage disposal. Central heating is an advantage but whatever form of heating is available fire guards or radiator guards must be provided.

8. In arranging the house for the reception of children, furniture and carpets should be removed and the rooms selected as nurseries should be those with the most sunny aspect.

9. A room on the ground floor should be reserved as reception accommodation and others as day rooms. Children under the age of two years should have a nursery to themselves and should be cared for as a unit as far as is practicable.

10. Night nurseries should also be provided and should contain not more than six cots in each.

11. Other accommodation required will include: (i) isolation rooms (several single rooms are desirable especially in a short-stay home); (ii) a kitchen and larder; (iii) a milk larder and safe; (iv) suitable sanitary arrangements for the children, including bath and changing rooms (low w.c.s

and wash-basins should if possible be fitted); (v) provision for laundry and keeping soiled garments. Accommodation for staff may occasionally be available on the upper floors of the nursery. Proper arrangements should be made for safety in case of fire and the advice of the local Fire Superintendent should be sought on this matter.

12. Provision should be made for the medical supervision of all children on admission to the nursery and for their examination when necessary. The Medical Officer, who should act under the general direction of the Medical Officer of Health, should visit the nursery at frequent intervals and be available at other times in case of emergency. The Medical Officer should be generally responsible for arrangements for the feeding and care of the children. Daily watch should also be kept over the physical condition of the children in order to deal promptly with any minor departure from health or with any case of illness. The greatest care must be exercised to prevent the admission to the nursery of any child who is suspected of suffering from some infectious or contagious disease. Any child who shows signs of infectious disease, diarrhoea (however slight), rash, skin disease, discharge from the eyes, rise of temperature, etc., should not be admitted, or if already admitted, should be immediately isolated. No child should be removed from the isolation room without the permission of the Medical Officer. Sick children should be removed from the nursery for appropriate treatment elsewhere.

13. Adequate provision should be made for the suitable feeding of the children in relation to their varying needs. A daily record of the dinners actually given should be kept. Pasteurised milk should be used when available; in other cases the milk should be brought to the boil and cooled immediately if possible by immersing the vessel in running cold water. It should be kept cool and carefully covered, and all food should be protected by gauze or wire-gauze from the access of flies.

14. Since a large amount of sleep is essential to the well-being of children, adequate opportunities should be afforded the children for sleeping under healthy conditions during the day and by night. They should be in the open-air as much as possible. Attention should also be paid to the training of the children in the elementary rules of health and conduct. The importance of a high standard of cleanliness should not be overlooked. The organisation of the children's play will require consideration.

15. Children should be bathed daily and separate towels, face-cloths, etc., should be provided for each child; they should be taught the regular use of a toothbrush.

16. Simple records must be kept, which should include the name, national registration number and address of the mother and also the next-of-kin if at a different address.

17. Equipment should include small tables and chairs, enamel or modern unbreakable plates and mugs, cots, bedding, mackintoshes, small chambers, etc.

18. Furniture for staff will be required if residence is provided, also crockery and cutlery.

19. Means of obscuring light in accordance with present regulations must be remembered. [639]

GOVERNMENT EVACUATION SCHEME

Circular 1885

October 5, 1939

BILLETING PAYMENTS TO HOUSEHOLDERS IN RESPECT OF UNACCOMPANIED SCHOOL CHILDREN OF OVER SIXTEEN YEARS

SIR,—(1) I am directed by the Minister of Health to inform the Local Authority that the Government have decided that the payment to be made to householders in respect of unaccompanied school children

who have attained the age of sixteen years will in future be at the rate of 10s. 6d. per week.

(2) At the present time payment at the rate of 10s. 6d. a week is made when only one unaccompanied child of any age is received. In such cases no alteration will be required. When, however, more than one child is accommodated and one or more of those children have attained the age of sixteen, the authorised payment to be made to the householder should be adjusted to provide for a payment at the rate of 10s. 6d. in respect of each child over the age of sixteen.

(3) *It will be necessary for the new payments to be made available to the householder during the week beginning Saturday, the 14th October.*

(4) In order to ascertain the householders who will be entitled to the new rate of payment, local authorities should at once communicate with the head teachers of senior, central, secondary and junior technical schools in their areas, and ask them to supply immediately a list showing the names, exact ages and present addresses of all boys and girls who have already reached, or will reach during the present month, their sixteenth birthday. The head teacher should at the same time be asked to supply a similar list in respect of other boys and girls who have already reached their fifteenth birthday. The production of the first list should not be delayed by the necessity for compiling the second, which can be forwarded to the Local Authority later in the month.

(5) Some other cases may arise of school children of sixteen years and over who are billeted with householders. According as these are brought to the notice of the Local Authority by the householder or otherwise, they should be noted and the appropriate procedure, as indicated below, applied to them also.

(6) On the receipt of the information required from the head teachers, local authorities should instruct their billeting officers to visit the householders and issue to them fresh billeting Forms A, and to withdraw and cancel those previously issued. The cancelled forms should be retained for production at audit. The new form should not be issued before the withdrawal of the old one. It should be issued to the householder only on the expiration of the week for which he was entitled to payment on the current form, and should be dated as from the beginning of the week in respect of which the new rate of payment becomes due.

(7) The billeting officer will satisfy himself that the children in respect of whom payment is to be made available are still lodged in the billet. He will complete the new Form A, and, in issuing it, will delete the words "being 10s. 6d. a week where one child is taken and 8s. 6d. a week for each child where more than one child is taken". He should initial the deletion, and insert after the words "at the rate of" the total weekly amount payable, calculated on the new basis (viz., 10s. 6d. for each child over sixteen, and 8s. 6d. for each child, if any, under sixteen).

(8) The instructions given above in respect of the use of Form A should also be applied in respect of Form E where occasion has arisen for that form to be used by the Local Authority for the compulsory billeting of unaccompanied children of the age in question.

(9) When the second list of children who have reached their fifteenth birthday is obtained from the head teachers, the new payments should be made available to householders as the children attain the age of sixteen.

I am, Sir, etc.

[640]

GOVERNMENT EVACUATION SCHEME

*Circular 1897**October 24, 1939*

COMPENSATION FOR DAMAGE TO BEDDING, ETC.

SIR,—I am directed by the Minister of Health to refer to paragraph 22 of Circular 1871, and to say that he has had under consideration cases in which, as a result of the billeting of persons under the Government Evacuation Scheme, complaints have been made of damage caused to bedding, etc., and other property of the householders who have provided the accommodation.

2. The Minister would be glad if Local Authorities would assist him by arranging for the examination by their officers, or by voluntary helpers, competent to deal with such matters, of all such complaints, with a view to deciding the extent to which the damage, etc., is due to the billeting of evacuees under the Government Scheme. Where after considering the report of the investigating officer or helper your Council are satisfied, upon adequate evidence, that such is the case, the Minister would be glad if you would proceed in the manner indicated in the following paragraphs with a view to making good the damage either by replacement, by cleaning or reconditioning where practicable, or if the matter cannot be dealt with appropriately by either of the foregoing methods by payment in suitable cases of the assessed value immediately prior to the damage.

BEDDING

3. Where the assessment of damage to articles of bedding suitable for small beds exceeds the figures shown in the margin*, replacement (if acceptable) from existing stocks, where such are available, will generally be the most economical. Any articles issued for such replacement purposes from stocks received in connection with either the Government Evacuation Scheme or the Emergency Hospital Scheme should be duly vouched in the records maintained of such articles (see the conditions of grant contained in paragraph 9 (iii) of the Appendix to Circular 1837) by a reference enabling the issue to be linked with the papers on which the claim was dealt with.

4. In other cases where replacement of bedding is desired by the householder and there are no suitable stocks available, local purchase at prices not exceeding for similar articles those quoted above* or, for large articles, prices bearing due relation thereto, may be undertaken (subject in respect of any one claim to the limitation in paragraph 5 below).

5. Cases of damage to bedding in which payment of compensation is decided to be necessary may be settled by your Authority subject to the limits as to price indicated in paragraph 4 and provided the total amount payable to any individual householder does not exceed £5. Claims which in the opinion of the Council would involve payment of a larger sum, should be referred to the Regional Office concerned with all the available information regarding them.

CARPETS

6. Complaints and claims in respect of damage to carpets may be dealt with in the same way as those relating to bedding and subject to the limit indicated in paragraph 5.

* Mattress, 18s.; Blanket (white), 13s. 6d.; Blanket (coloured), 10s.; Pillow, 4s. 6d.; Pillow case, 3s.; Sheet (cotton), 5s. 6d.

7. Expenditure incurred in settling claims should be included in the Council's claim for reimbursement of evacuation expenditure.

OTHER CLAIMS

8. Claims falling under any headings other than those above referred to should be investigated and reported to the Regional Office concerned with the Council's recommendation at the earliest possible day, but care should be taken that no commitment of any sort is entered into in regard to them.

9. The Minister hopes that, under this authority, the greater part of the claims, which are small in amount but are a source of great annoyance to a number of people who have, often at considerable personal inconvenience, done their best to assist in making the Scheme a success, will be speedily disposed of. I am to ask that your Authority will furnish to the Department a statement of the cases which have been settled by your Council under this Circular, showing the nature of the damage, etc., in each case and the compensation made.

I am, Sir, etc.

[641]

RECOVERY OF COST OF BILLETING SCHOOL CHILDREN

Circular 1898

October 24, 1939

REFEREES

SIR.—I am directed by the Minister of Health to state that, as indicated in paragraph 7 of Circulars 1877 and 1877A, the Minister is inviting a number of persons of standing and experience to act as Referees for the purposes of the Scheme and to enclose a copy of a memorandum (Rec. 3) which has been prepared for their guidance. You will be informed as soon as possible of the name and address of the person (or persons) who will act in this capacity for the area of your Council; and it is suggested that you should get into touch with him (or them) without delay with a view to arranging details of procedure. Your Council will, no doubt, be prepared to provide the necessary accommodation for the purpose, and to give the Referee the services of an officer (who should not be an officer engaged in the work of assessment and recovery) to deal with papers, make the necessary appointments, etc.

PROCEEDINGS FOR RECOVERY OF BILLETING CHARGES

2. Under Defence Regulations 22 (5) and 31 (A) sums recoverable by the Minister in respect of billeting fees and medical attendance are recoverable by proceedings in a Court of Summary Jurisdiction. The responsible officers of the Council should take the usual steps by sending reminders to or visiting the parents, or otherwise, to secure the regular payment of the sums due. If, notwithstanding this, payments have become seriously in arrear, a decision will have to be taken whether the case is one in which it is worth while to incur the expense of legal proceedings.

A further memorandum dealing with the legal procedure will be issued as soon as possible.

STATISTICAL RETURNS

3. (1) A statement giving the under-mentioned information and covering the period ending the 11th November, 1939, should be sent to the Ministry of Health not later than the 18th November :—

		<i>Number of Parents.</i>	<i>Number of children involved.</i>	<i>Assessed on Model Letter.</i>
<hr/>				
(a)				
	(i)		2A	(Over 6s.)
	(ii)		2A	(6s.)
(b)			2B	(Less than 6s.)
(c)			2C	(NIL—parent being in receipt of Unemployment Assistance or Public Assistance.)
(d)			2D	(NIL—parents' income being below assessable scale.)
(e)			2E	(FORM not returned. Assess- ment made at rate of 6s.)
(f)			2F	(Inadequate offer. Assessment made at 6s. or less.)
<hr/>				
Total				
<hr/>				
Number of cases still awaiting first assessment				
Number of children involved				
<hr/>				

(2) A statement should be sent to the Ministry of Health not later than the 2nd December, 1939, covering the four weeks ended the 25th November, showing :—

- (a) Total amount collected in the period in question. £.....
- (b) Number of children on the first day of the period in respect of whom payments are being made.
- (c) Number of children in respect of whom payments are being excused under model letter 2D.
- (d) Number of cases referred to Referees.

A similar statement should be submitted thereafter at regular intervals of four weeks.

EXAMINATION OF ACCOUNTS

4. In the case of Councils whose accounts are ordinarily subject to District Audit the accounts relating to the recovery on the Minister's behalf of the cost of billeting school children will be audited by the District Auditor in the course of his annual audit of the Council's accounts and, in addition, he will make such further examination of the current accounts as may be directed by the Minister.

In the case of Councils (i.e., certain County Boroughs) whose accounts are not wholly subject to District Audit, the District Auditor will conduct such examination of the accounts relating to this work as may be directed by the Minister.

COST OF ADMINISTRATION OF THE SCHEME

5. The Minister has consulted representative of the Local Government bodies concerned as to the best method to adopt in order to recoup the Councils the cost of administration and has accepted the suggestion that a decision on this question should be postponed until the Scheme has been in operation for a few months. In the meantime, it will be necessary for a record to be kept of the salaries, or proportion of salaries, of officers employed wholly, or part-time, on this work and of any other expenses incurred in connection with the administration of the Scheme.

I am, Sir, etc.

[642]

GOVERNMENT EVACUATION SCHEME

Circular 1904

November 2, 1939

PROCEDURE FOR SUBMISSION AND PAYMENT OF CLAIMS FOR
COMPENSATION IN RESPECT OF PREMISES REQUISITIONED UNDER
CIRCULAR 1857 DATED 27TH AUGUST, 1939

SIR,—I am directed by the Minister of Health to refer to paragraph 7 of Circular 1857, which instructed Clerks to Local Authorities (to whom were delegated, by that Circular, certain powers conferred on the Minister by Regulation 51 of the Defence Regulations) not to attempt, pending legislation on the subject, any settlement of the terms upon which requisitioned premises should be taken over.

2. The Compensation (Defence) Act, 1939, is now in operation, and it will be observed that compensation for the taking possession of land falls to be determined under section 2, and that in the cases under consideration claims will usually arise under paragraphs (a), (b) and (d) of sub-section (1). It will further be noted that section 10 of the Act provides for the payment of interest as from the date from which any compensation accrues due. This date varies according to the paragraph under which the compensation is payable and, in respect of the three paragraphs referred to, is fixed by sub-sections (2), (3) and (5) respectively of section 2. The interest prescribed by the Treasury is at the rate of 4 per cent. per annum (S.R. & O., 1297, of 1939).

3. It has now been decided that the negotiations for the settlement of such claims shall be undertaken by the Valuation Department of the Inland Revenue, although it will remain for a Local Authority to make, on behalf of the Minister, the actual payments of the sums due. Accordingly the only matters with which the Local Authority will be concerned are the procedure for the submission and payment of claims. These are dealt with in the following paragraphs.

4. In regard to this procedure, I am to enclose for your information two copies of the Compensation (Defence) Notice of Claim Rules, 1939 (S. R. & O. 1296 of 1939), and to inform you that a supply of Forms 1 and 2 prescribed thereby will be sent to you under separate cover. In the normal case where a person upon whom a requisition notice has been served informs the Authority that he desires to make a claim under the Act two copies of the appropriate form or forms should be sent to him, the space at the head of each form being so completed before its despatch as to require that it is returned direct to you. The attention of the claimant should, at the same time, be drawn to Article 2

which requires that claims, made out in duplicate on the forms, are to be delivered to such persons as the competent authority (that is, the Minister in the cases in question) shall direct; and he should be informed that the Minister has directed that claims should be delivered to you.

5. The forms, when returned, should immediately be transmitted to the District Valuer with any available information which may be of assistance including, in all cases, copies of the requisition and of the record of the condition of the property made under Circular 1857B.

6. In some cases owners or occupiers whose premises have been requisitioned may, for patriotic reasons, decide not to make any claim. In these cases a copy of the document relinquishing the claim should be sent to the Senior Regional Officer of the Ministry of Health and the original carefully preserved in the records of the requisition.

7. In other cases owners or occupiers, while making no substantial claim, may wish for reimbursement of out-of-pocket expenses of a trifling amount in comparison with the amount which might justly be claimed under the Act. In these cases the claimant need not at that stage be required to submit a formal claim, and the correspondence should immediately be transmitted to the District Valuer with any information, similar to that mentioned in paragraph 5, in the possession of the Local Authority.

8. Where a formal claim is made and the negotiations for settlement are likely to be prolonged, the District Valuer may consider that a payment on account to the claimant is desirable. In these cases the District Valuer will report to the Senior Regional Officer, who will send a direction to the Local Authority to pay such sum as may be specified. Payment should be made at once in accordance with the terms of the direction.

9. As soon as a settlement has been reached the District Valuer will report to the Senior Regional Officer who will send to the Local Authority a copy of the document embodying the terms of settlement. Payment in accordance with these terms, less any amount paid on account under the preceding paragraph, should be made at once by the Local Authority on behalf of the Minister. Except where the terms indicate that interest is included in the settlement, Local Authorities will have the duty of calculating, in accordance with sub-section (2), (3) or (5) as the case may be, of section 2 of the Act, the amount of any interest due up to the date of payment (see also paragraph 2 of this Circular).

10. Compensation, including payments of interest due thereon, paid in accordance with this Circular will be met by the Exchequer, reimbursement being claimed by Local Authorities along with other evacuation expenses on the form already provided. Where payments of large claims or of substantial numbers of small claims have to be made the Local Authority may make application to the Ministry for a special payment on account to be made to them (see Circular 1837).

11. In conclusion, I am to draw your attention to the limitation of time for claiming compensation imposed by section 11 of the Act, and to say that any applications for extensions should be forwarded to the Senior Regional Officer.

I am to ask that your Authority will be good enough to afford to that Officer, and to the District Valuer, every possible assistance in the matters dealt with in this Circular.

I am, Sir, etc.

[648]

CLOTHING AND FOOTWEAR OF UNACCOMPANIED EVACUATED SCHOOL CHILDREN

Circular 1907

November 7, 1939

Sir,—I am directed by the Minister of Health to communicate with the Local Authority regarding the clothing and footwear of unaccompanied evacuated school children in the reception areas.

2. The Minister is aware that many householders throughout the country have been extremely generous in providing children in need with clothing at their own expense and he is deeply appreciative of their kindness. He is anxious, however, that householders should not be put to this form of expense, and he certainly would not wish that they should feel that it is expected of them.

3. The primary responsibility for providing children with the necessary clothes rests with the parents, and that responsibility remains with the parents notwithstanding that the children are evacuated: the existence of this responsibility was one of the considerations taken into account in determining to what extent parents should be expected to repay the cost of billeting.

4. The Minister has no doubt that most parents will readily recognise this responsibility but it may well be that when the children are away from home, the fact that a need has arisen and the best method of meeting the need will require to be brought to their notice. Many of the parents will already be personally known to the teachers and helpers, and some of them will already have made the acquaintance of the householders with whom their children are billeted. If teachers, helpers and householders can keep in regular touch with the parents, there should be comparatively little difficulty in obtaining the necessary supplies of clothing, or money for their purchase, from those parents who are willing and able to carry out their obligations towards their children.

5. The teachers will, from their daily contact with the children, be in a position to judge how far these efforts are successful and what proportion of children there are who remain unprovided with essential garments.

The following paragraphs 6, 7 and 8 apply in the case of this proportion only :—

6. (a) Parents who are in receipt of unemployment assistance may apply to the Unemployment Assistance Board, who will, it is understood, be prepared to give such assistance as may be necessary to supply the necessary articles. Application for assistance in providing boots and clothing should be made by the parent to the Area Officer of the Unemployment Assistance Board in the area in which the parent resides. The Board's officer will be glad to co-operate with the local authority and the voluntary organisations concerned with the case in making arrangements for dealing expeditiously with such applications.

(b) Parents in receipt of unemployment benefit will in many cases be in a position themselves to provide the clothing required by their children, since they may possess resources besides their unemployment benefit, or the benefit may include allowances in respect of their children. Where, however, they are not able to supply their children with what may be required, it will be open to them to apply to the Unemployment

Assistance Board in the same way as parents who are in receipt of Unemployment Assistance.

(c) Parents who are not in employment and are not within the scope of the Unemployment Assistance scheme as extended by Regulations made under the Unemployment Assistance (Emergency Powers) Act, may apply for public assistance. The application should be made to the Public Assistance Authority for the evacuation area. That authority will already be aware of the financial circumstances of the parent, either because he is already in receipt of out relief or, if not, through the machinery now being established from the recovery from parents of billeting charges. For the purpose of satisfying themselves as to the needs of the child the Authority, where it is also the Local Education Authority, will have available the advice and reports of their own teachers. Alternatively, arrangements might be made with the Public Assistance Authority of the reception areas for receiving the co-operation of the local relieving officers to substantiate the needs of the child.

7. In cases where the Authority is already granting out relief to the parent, it will be a matter for their consideration whether the circumstances justify a special grant for the purpose of meeting the special needs of the child. Similarly, if the parent is unemployed but not already in receipt of relief, the question will be whether, having regard to his financial circumstances, the special needs of the child justify the grant of relief to the parent.

8. The relief, if granted, would take one of the following forms according to the circumstances of the case, viz. :—

- (1) An additional cash payment to the parent to enable him to buy the articles required.
- (2) An order on a tradesman or on some local organisation for the supply of the articles.
- (3) The issue of the actual articles.

9. In addition to the possible sources of supply to which reference has already been made, there has been set on foot a considerable amount of voluntary effort. The Local Welfare Committees, whose establishment in the reception areas was recommended in paragraph 27 of the Ministry's Memorandum Ev. 4 will have been set up, and the Minister has no doubt that they will already have been engaged in collecting gifts of clothing and in arranging for the making of garments by parties of voluntary workers. The Minister is aware that in a number of the receiving and evacuating areas appeals have been made with a view to providing in one way or another the necessary clothes and equipment. He is confident that in particular the needs of children will make a special appeal to the towns from which they come : he hopes, therefore, that the responsible authorities for any evacuating areas who have not already done so will issue appeals and set up organisations for this purpose.

10. The Minister has been in close touch with Women's Voluntary Services for Civil Defence, who have informed him of their readiness to assist Authorities in organising the collection of such clothing in co-operation with the Personal Service League both in the evacuating and receiving areas.

11. The Minister believes that in one or other of these ways essential needs should be capable of being met. In view of the various sources from which needs may be supplied, it appears desirable that there should be effective co-ordination between the teachers of the schools

and the representatives of the Local Welfare Committees who are specially concerned with this form of welfare work. The Minister has no doubt that the personal contacts on which successful co-operation in this kind of work largely depends will be readily established in each district, if this has not already been done.

12. There is one aspect of this work in present circumstances to which the Minister thinks it desirable to draw special attention. It has to be recognised that in the matter of boots and clothes the needs of children in the country are different from those of children in towns, more particularly when, as will often be the case, the children have to do a considerable amount of walking on country lanes and footpaths. The object to be aimed at is protection from cold and wet. In addition to warm clothing, the provision of some form of mackintosh, preferably a cape with a hood, and of stout laced shoes or boots, or alternatively Wellington boots, is important.

13. The Minister trusts that in the communications with parents the special importance of these needs (which may well not be fully appreciated by those living in the towns) will be kept to the fore, and that this matter will also be borne in mind by those who are collecting funds or clothing to meet the needs of evacuated children in the reception areas.

14. Where, notwithstanding these efforts, the head teachers find that children in their schools whose attendance now exposes them in greater measure to cold and wet are unable to receive essential provision of this kind, they should report the circumstances of the case to the Director of Education for the evacuating area.

15. Apart from the initial provision of clothes and boots in any of the ways indicated above, the Minister attaches great importance to the organisation of working parties for the repair of clothes; and boots and, so far as material is available, for making them, and he has no doubt that this is a matter to which special attention will be given in the development of the community activities which are being initiated in many receiving areas. He has no doubt that "make and mend" work of this kind will make a special appeal to the mothers of young children from the evacuating areas who are living in these districts.

I am, Sir, etc. [644]

GOVERNMENT EVACUATION SCHEME

Circular 1909

November 8, 1939

INSURANCE OF HELPERS

Sir,—I am directed by the Minister of Health to state that he has had under consideration, in consultation with the Ministry of Labour, the question of the liability of Local Authorities in reception areas for the payment of contributions under the National Health Insurance, Contributory Pensions and Unemployment Insurance Acts in respect of helpers under their control who are engaged in duties in connection with the Government Evacuation Scheme.

Contributions at the ordinary rates are payable by the Local Authorities of reception areas in respect of:—

- (a) Helpers from evacuation areas who do not receive any money payment, but who are billeted on the basis of Form C.

- (b) Locally recruited helpers who are employed and who receive payment for their services.

In so far as contributions have not been paid in respect of persons employed as helpers they should be paid retrospectively as from the contribution week in which the employment commenced. Where the helpers have not previously been insured they should be instructed to obtain a Health and Pensions contribution card from the Post Office, and an Unemployment Book from the nearest Employment Exchange. No part of the cost of the contributions will be borne by the persons referred to at (a) above.

The expenditure incurred by local authorities in paying contributions in respect of helpers will be recognised as a charge against the Government Evacuation Scheme.

I am, Sir, etc. [645]

GOVERNMENT EVACUATION SCHEME

Circular 1915

November 20, 1939

Sir,—I am directed by the Minister of Health to state that it is understood that certain sums representing billeting allowances refunded in various circumstances by householders and others to the local Billeting Officers have been paid to Postmasters or retained by the Chief Billeting Officer of the Council pending directions from the Minister.

I am to request that the Chief Financial Officer of the Council should take over the collection of all such monies and should keep a separate account and suitable records of the amounts refunded. After the end of each quarter, a cheque for the amount collected during the quarter should be sent to the Ministry of Health with a statement showing how the amount is made up.

Where excess payments have been made to billetors, either as a result of mistaken action on the part of Billeting Officers or of irregular conduct of householders, the Chief Billeting Officer should report the facts, as soon as he is made aware of them, to the Local Authority's Chief Financial Officer, who should in turn take all reasonable steps open to him, short of the institution of proceedings, to secure a refund from the person, whether billetor or billetee, who has temporarily benefited by the overpayment. Action by the Chief Financial Officer should be on the lines which he would normally take to effect recovery of a debt due to his own Local Authority. (This direction is of course subject to the first paragraph of page 3 of Circular 1879, with regard to the recovery of part-week overpayments.)

Should cases occur in which there is a refusal to refund overpayments, the circumstances should be reported to the Minister for his decision as to whether any, and if so what, further action should be taken, indicating wherever it is known to the Chief Financial Officer that the refusal is due to lack of means or such other circumstances as in his view would prompt his own Council, if in fact the sum was owing to them, to write it off as irrecoverable. All cases coming to notice in which public moneys have been disbursed as a result of *fraudulent* practice on the part of billetors and others should, whether recovery has been effected or not, be reported to the Minister.

As regards the recovery under the Defence Regulations of a weekly sum in respect of accommodation and medical treatment provided for unaccompanied children, the method of collecting the refunds as from the 28th October is indicated in the Circular letter of the 7th October numbered 1888. Voluntary and miscellaneous refunds received by your Council should however continue to be dealt with on the lines of the second paragraph of this letter.

A copy of the circular is enclosed for the information of the Financial Officer of the Authority.

I am, Sir, etc. [646]

FINANCE

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ORDERS, CIRCULARS AND MEMORANDA

TREASURY MINUTE FIXING RATES OF INTEREST ON LOCAL LOANS

S. R. & O., 1939, No. 529

May 9, 1939

My Lords read Section 1 of the Public Works Loans Act, 1897 (60 & 71 Vict. c. 51), which empowers the Treasury from time to time to fix the rates of interest at which loans may be made out of the Local Loans Fund on the security of Local rates, and provides that the Treasury, in fixing the rates, shall have regard to the duration of the loans, and also that the rates shall be such as, in the opinion of the Treasury, are sufficient to enable the loans to be made without loss to the Fund.

They also read Section 4 of the Public Works Loans Act, 1918 (8 & 9 Geo. 5. c. 27), by which it is declared that the power of the Treasury under Section 1 of the Public Works Loans Act, 1897, as amended by Section 4 of the Public Works Loans Act, 1917 (7 & 8 Geo. 5. c. 32), to fix rates of interest on loans made out of the Local Loans Fund otherwise than on the security of local rates includes (subject always to the provisions of the said Sections) a power to fix rates of interest differing from the rates fixed for loans made out of that fund on the security of local rates, and a power to fix different rates of interest in respect of different loans and that in fixing the rate of interest the Treasury may take into account the nature and value of the security for the loan.

They further read Section 92 of the Housing Act, 1936 (26 Geo. 5 & 1 Edw. 8. c. 51), and Section 73 of the Housing (Scotland) Act, 1925

(15 & 16 Geo. 5, c. 15), as amended by Sections 25 and 28 of the Housing (Scotland) Act, 1935 (25 & 26 Geo. 5, c. 41), which provide that loans may be granted to companies, societies, associations and persons as defined in those Sections in connection with the provision of houses for the working classes.

The rates of interest were last revised by the Treasury Minute of the 31st March, 1939, when the minimum rate was fixed at $3\frac{7}{8}$ per cent. In view, however, of present monetary conditions the lowest rate now consistent with the conditions laid down by the Acts cited in the first and second paragraphs above is 4 per cent.

Accordingly the Chancellor of the Exchequer recommends that the minimum rate for local loans be raised from $3\frac{7}{8}$ per cent. to 4 per cent. and that all other rates for local loans, whether secured on local rates or otherwise, be raised by $\frac{1}{8}$ per cent.

My Lords approve, and accordingly, the following scales will come into operation as from the 10th May, 1939, and will apply to all loans granted out of the Local Loans Fund on or after that date :—

I

*Housing Loans**Rate of Interest.*

- | | |
|---|--------------------------|
| (1) Loans to Local Authorities secured on Local Rates for any purpose of the Housing Acts and the Housing (Rural Workers) Acts, 1926 to 1938. | |
| Any period | 4 per cent. |
| (2) Loans to Housing Associations as defined by the Housing Act, 1936, and the Housing (Scotland) Act, 1935. | |
| Not exceeding 30 years | 4 per cent. |
| Not exceeding 50 years | $4\frac{1}{4}$ per cent. |
| (3) To Companies and Private Persons limiting their profits to the rate for the time being prescribed. | . |
| Not exceeding 30 years | 4 per cent. |
| Not exceeding 40 years | $4\frac{1}{4}$ per cent. |
| (4) To Companies and Private Persons not limiting their profits as aforesaid. | |
| Not exceeding 30 years | $4\frac{1}{2}$ per cent. |
| Not exceeding 40 years | $4\frac{3}{4}$ per cent. |

II

Other Loans

- | | |
|--|--------------------------|
| (1) Loans to Local Authorities for any purposes of the Small Holdings and Allotments Acts, 1908 to 1931 and the Allotments Acts, 1908 to 1931. | |
| Any period | 4 per cent. |
| (2) Other Loans secured on Local Rates :— | |
| Not exceeding 30 years | 4 per cent. |
| Not exceeding 50 years | $4\frac{1}{4}$ per cent. |

*Other Loans—continued**Rate of Interest*

(3) Loans not secured on Local Rates :—

(a) Loans under the Harbours and Passing Tolls, &c., Act, 1861 :—

(i) With collateral security :—

Not exceeding 30 years 4 per cent.

Not exceeding 50 years 4½ per cent.

(ii) Without collateral security :

Not exceeding 30 years 4½ per cent.

Not exceeding 50 years 4¾ per cent.

(b) Other loans not secured on Local Rates (except loans to Territorial Associations, which, under Section 6 of the Public Works Loans Act, 1908, bear interest at the rate prescribed for Loans on the Security of Local Rates) :—

Not exceeding 30 years 4½ per cent.

Not exceeding 50 years 4¾ per cent.

[647]

CIVIL DEFENCE ACT, 1939

*Circular 1887**August 31, 1939*

SECTION 56.—EVACUATION OF CIVIL POPULATION. APPLICATIONS BY LOCAL AUTHORITIES FOR PAYMENT ON ACCOUNT OF GRANTS AND EXPENSES IN THE FINANCIAL YEAR 1938-39, AND OF ESTIMATED EXPENDITURE IN THE FIRST HALF OF THE FINANCIAL YEAR 1939-40.

SIR,—I am directed by the Minister of Health to enclose two copies (one for retention) of Form AG.1001, on which should be entered in Part A particulars of the Council's expenditure during the financial year ended 31st March, 1939, and in Part B the Council's estimated expenditure during the first half of the current financial year in connection with plans for the transference of the civil population. The form, completed in both Parts, should be returned to the Department, when a payment on account will be made. Final payment in respect of Part A will be made after examination of the claim by the District Auditor, to whom it will be referred by the Department.

2. Nil returns should be rendered in cases where no expenditure has been incurred or is anticipated.

3. Section 56 of the Act provides for the payment of grants to any local authority equal to the total amount of their expenses under the Section approved by the Minister acting in accordance with the general directions of the Treasury. Under Section 83 of the Act these payments are subject to such conditions as the Minister may, with the approval of the Treasury determine. A copy of these Conditions is appended.

4. The Council's attention is directed to Circulars 1759 and 1800 and the accompanying Memoranda dealing with Evacuation plans. The Council should take particular note that, as stated in the last

sentence of paragraph 10 of Circular 1800 and in paragraph 7 of the Treasury Conditions, the Minister's power of approval is limited to expenses which are incurred specifically for the purpose of the evacuation plans and are clearly additional to any expenditure which would otherwise have had to be incurred by the local authority.

5. An additional copy is enclosed for the information of the Council's Chief Financial Officer.

I am, Sir, etc.,

APPENDIX.

CIVIL DEFENCE ACT, 1939.

Grants under Sections 53 and 56 of the Act : Conditions approved by the Treasury under Section 83.

The Minister of Health acting on behalf of the Lord Privy Seal as regards grants under Section 56 of the Act, has, with the approval of the Treasury determined under Section 83 of the Act that all grants made to local authorities under Sections 53 and 56 of the Act shall be paid at the times, in the manner and subject to the following conditions :—

1. A payment on account may be made by the Minister to a Council in the fourth or later month in each half of a financial year. A Council making application for such a payment shall furnish in a form supplied by the Minister—

(a) for the purpose of a payment on account in the first half of a financial year, an estimate of the Council's expenditure in that half-year on services under Section 53 or Section 56, as the case may be, of the Act; and

(b) for the purpose of a payment on account in the second half of a financial year, particulars of such expenditure of the Council in the first half and an estimate of such expenditure in the second half of that year.

2. Subject to Condition 3 of these Conditions the payment on account in the first half of the financial year may represent approximately 90 per cent. of the sum estimated by the Minister to be due in respect of the Council's estimated expenditure in that half-year. The payment on account in the second half of the financial year may be such amount as together with the first payment on account represents approximately 90 per cent. of the sum estimated by the Minister to be due in respect of the Council's estimated total expenditure in that year.

3. If in a particular case it is shown by a Council that the normal arrangement for half-yearly payments on account would not suffice the Minister may make payments on account in respect of constructional expenditure during the course of the work at intervals of not less than six weeks, the amount of each payment being based on certificates to be rendered by the Council's chief technical officer concerned as to the value of the work carried out to that date. The total of the payments on account in respect of any particular item shall not exceed 90 per cent. of the amount of the sum estimated by the Minister to be payable in respect of that item.

4. If the amount properly payable in any year is less than the total of the amounts paid on account in respect of that year and of the receipts or credits to be brought to account (see Condition 9B), then the necessary adjustment shall be made either by deduction from the amount payable in respect of a later year or by repayment to the Minister in such manner as he may direct.

5. Subject to these Conditions the final payment in respect of the expenditure incurred by a Council in any financial year shall be made as soon as may be after the amount of the Council's expenditure in that year (including any sums to be taken into account under Section 55 of the Act in computing the grant payable to the Council) has been approved by the Minister.

6. Every Local Authority shall keep such accounts of the expenditure

specifically incurred by them for purposes of Sections 53 and 56 of the Act as will enable them to submit as soon as may be after the end of each financial year Statements of such expenditure on the form supplied by the Minister, and the accounts shall be in such form as to enable the District Auditor to verify the correctness of such Statements of Expenditure.

7. The expenditure approved for grant shall be limited to expenditure incurred specifically for the purposes of Sections 53 and 56 of the Act, and which, but for those provisions, would not have been incurred.

8. Subject to the preceding Condition, the Minister in approving the items included in such Statements of Expenditure will have regard, generally

(a) as regards grants under Section 53 of the Act : (i) in respect of works of protection, to paragraph 4 of Emergency Medical Services Memorandum No. 1—Structural and other Precautions against Air Raid Risks in Hospitals, and (ii) in respect of works, etc., consequent on “upgrading”, to paragraph 10 of Emergency Medical Services Memorandum No. 2 (England and Wales)—Emergency Hospital Organisation ;

(b) as regards grants under Section 56 of the Act : to the terms of Circulars 1759 and 1800, and

(c) to any further Circulars or instructions which may be issued in regard to these matters.

9. Every local authority submitting a Statement of Expenditure shall cause the following certificates to be furnished with such Statement :—

A. A certificate by the Clerk to the Authority that

(i) subject to paragraph (ii) hereof, the following property, equipment, stores and other material have been properly maintained in good condition ; that they have not been appropriated or used for any other purpose (save as shown in a Memorandum which shall, when necessary, be attached to the certificate) ; that they remain at the date of the certificate in the control of the Authority and available in all respects for the purposes of the Act ; and that the stores, equipment, and other material under (c) are available for return or transfer if so required by the Minister. The property, equipment, stores and other material to which this certificate relates are the following, namely—

(a) The quantities of drugs and other medical stores, beds, mattresses, bedding and other ward equipment which a Local Authority are required by Section 51 (c) of the Act to acquire at their own expense and to hold available for the purposes of the Act at every hospital under the control of the Authority specified by the Minister.

(b) All property, equipment, stores and other material in respect of which grants have at any time been made under the Act by the Minister to the Local Authority or in respect of which expenditure is included in the Statement of Expenditure.

(c) All stores, equipment and other material acquired by the Minister under Sections 50 or 56 of the Act and delivered to the Local Authority or purchased by the Local Authority and held by them on behalf of His Majesty.

(ii) all stores, equipment and other material in so far as likely to deteriorate with the efflux of time and suitable to be used for hospital purposes, have, as far as is practicable, been taken into use for such purposes and have been replaced by articles of the same kind and of not inferior quality ;

(iii) proper records are maintained of all property, equipment, stores and other material as aforesaid showing the places in which equipment, stores, etc., are stored ; and

(iv) all records made for the purposes of Part VII and Section 56 of the Act remain in the control of the Local Authority and available for the purposes of the Act.

B. A certificate by the Chief Financial Officer to that Authority that the particulars set forth in the Statement are correct ; that the expenditure included in the Statement has been incurred specifically for the purposes of Section 53 and/or Section 56 as the case may be, of the Act : and that no part of the expenditure has been or will be included in any other claim from public funds. The Chief Financial Officer shall also either certify that there were no receipts or credits relating to the period covered by the Statement which should be brought to account in the claim or shall attach to the Statement a supplementary statement giving particulars of any such receipts or credits.

10. Every Local Authority submitting a Statement of Expenditure in accordance with these Conditions shall permit the District Auditor, or any other officer of the Ministry of Health authorised by the Minister to have access to and to inspect the accounts (including all relevant documents and vouchers) records, property, medical and other stores and equipment, etc., referred to in these Conditions.

11. For the purpose of these Conditions the expression "property" includes any appliance affixed to any premises ; the expression "medical stores and equipment" has the meaning prescribed by Section 50 (6) of the Act ; and the expression "local authority" includes a combination of Councils existing for the purpose of the provision or maintenance of hospitals being a combination which includes one or more Councils of Counties or County Boroughs. [648]

CIVIL DEFENCE ACTS, 1937 AND 1939

Circular 1838

August 31, 1939

APPLICATIONS BY LOCAL AUTHORITIES FOR PAYMENTS ON ACCOUNT OF
ESTIMATED EXPENDITURE IN THE FIRST HALF OF THE FINANCIAL
YEAR 1939-40, ON :—

A. Local purchases of equipment for First-Aid Posts and Points.

B. Provision for treatment in Hospitals of air-raid casualties

SIR, I am directed by the Minister of Health to enclose two copies (one for retention) of Form AG. 1002 in which should be entered particulars of the Council's estimated expenditure on the above-mentioned services. It is requested that you will be good enough to arrange for one copy of the form to be completed and returned as soon as possible. Nil returns should be rendered where it is estimated that no expenditure will be incurred during the current half year. Part A of the form is intended to be completed by the Council on whom falls the net expenditure on the provision of First-Aid Posts and Points. County Districts in whose areas this expenditure is borne by the County Council, either directly or by reimbursement to the District Council should endorse a copy of the form to that effect and return it to the Department.

A. Local purchases of equipment for First-Aid Posts and Points

2. As stated in Note (7) (i) on Item 5 of claim Form A.R.P. 38G/8, the expenditure referred to in paragraph 7 of the Ministry of Health Circular 1789, dated 24th March, 1939, will not be included in any claim for Exchequer Grant under the Act of 1937. Particulars of the Council's estimated expenditure under this heading should be entered

in Part A of the enclosed Form AG.1002. Regulations made under Section 11 (1) of the 1937 Act will apply to this equipment.

B. Provision for treatment in Hospitals of air-raid casualties

3. The Council's attention is directed to Emergency Medical Services Memoranda Numbers 1 and 2. The former deals with structural and other precautions against air-raid risks in hospitals and claims will be dealt with having regard to the provisions of paragraph 4 thereof. The latter deals generally with the Emergency Hospital Organisation and particular attention is called to paragraphs 10, 49 and 50. All payments will be made in accordance with the Conditions which have been determined by the Minister with the approval of the Treasury under Section 83 of the 1939 Act : a copy of these Conditions is appended to this Circular.

4. The Council should take particular note of paragraph 7 of the Conditions under which the Minister's power to approve expenditure are confined to expenditure incurred specifically for the purposes of the Emergency Hospital Organisation and which is clearly additional to any expenditure which would have had to be incurred had that organisation not been set up.

5. Where measures have been taken by a combination of Councils as defined in Section 55 of the 1939 Act, a copy of Form AG.1002 should be completed by the combined authority and sent to the Department. Such form should contain particulars of the apportionment of expenditure and of estimated expenditure between the Councils of the Counties and County Boroughs concerned. For purposes of payment, the Council of the County or County Borough should include in a separate sub-schedule their apportioned share of such expenditure.

6. Any expenditure under heading A above which may have been incurred during the previous financial year, i.e., the year ended 31st March, 1939, and in respect of which no claim has previously been made, and any expenditure under heading B which may have been incurred in that year, should be entered on separate sub-schedules and so described. In the case of combinations of Councils the date on which the expenditure under heading B was incurred by the combination will be the governing date for the purpose of apportionment of expenses of the combination amongst the Counties and County Boroughs concerned.

7. An additional copy of this Circular is enclosed for the information of the Council's Chief Financial Officer.

I am, Sir, etc.

APPENDIX

CIVIL DEFENCE ACT, 1939

Grants under Section 53 and 56 of the Act : Conditions approved by the Treasury under Section 83

The Minister of Health acting on behalf of the Lord Privy Seal as regards grants under Section 56 of the Act, has, with the approval of the Treasury determined under Section 83 of the Act that all grants made to local authorities under Sections 53 and 56 of the Act shall be paid at the times, in the manner and subject to the following conditions :—

1. A payment on account may be made by the Minister to a Council in the fourth or later month in each half of a financial year. A Council making

application for such a payment shall furnish in a form supplied by the Minister—

(a) for the purpose of a payment on account in the first half of a financial year, an estimate of the Council's expenditure in that half-year on services under Section 53 or Section 56, as the case may be, of the Act; and

(b) for the purpose of a payment on account in the second half of a financial year, particulars of such expenditure of the Council in the first half and an estimate of such expenditure in the second half of that year.

2. Subject to Condition 3 of these Conditions the payment on account in the first half of the financial year may represent approximately 90 per cent. of the sum estimated by the Minister to be due in respect of the Council's estimated expenditure in that half-year. The payment on account in the second half of the financial year may be such amount as together with the first payment on account represents approximately 90 per cent. of the sum estimated by the Minister to be due in respect of the Council's estimated total expenditure in that year.

3. If in a particular case it is shown by a Council that the normal arrangement for half-yearly payments on account would not suffice the Minister may make payments on account in respect of constructional expenditure during the course of the work at intervals of not less than six weeks, the amount of each payment being based on certificates to be rendered by the Council's chief technical officer concerned as to the value of the work carried out to that date. The total of the payments on account in respect of any particular item shall not exceed 90 per cent. of the amount of the sum estimated by the Minister to be payable in respect of that item.

4. If the amount properly payable in any year is less than the total of the amounts paid on account in respect of that year and of the receipts or credits to be brought to account (see Condition 9B), then the necessary adjustment shall be made either by deduction from the amount payable in respect of a later year or by repayment to the Minister in such manner as he may direct.

5. Subject to these Conditions the final payment in respect of the expenditure incurred by a Council in any financial year shall be made as soon as may be after the amount of the Council's expenditure in that year (including any sums to be taken into account under Section 55 of the Act in computing the grant payable to the Council) has been approved by the Minister.

6. Every Local Authority shall keep such accounts of the expenditure specifically incurred by them for purposes of Sections 53 and 56 of the Act as will enable them to submit as soon as may be after the end of each financial year Statements of such expenditure on the form supplied by the Minister, and the accounts shall be in such form as to enable the District Auditor to verify the correctness of such Statements of Expenditure.

7. The expenditure approved for grant shall be limited to expenditure incurred specifically for the purposes of Sections 53 and 56 of the Act, and which, but for those provisions, would not have been incurred.

8. Subject to the preceding Condition, the Minister in approving the items included in such Statements of Expenditure will have regard, generally

(a) as regards grants under Section 53 of the Act: (i) in respect of works of protection, to paragraph 4 of Emergency Medical Services Memorandum No. 1—Structural and other Precautions against Air Raid Risks in Hospitals, and (ii) in respect of works, etc., consequent on "upgrading", to paragraph 10 of Emergency Medical Services Memorandum No. 2 (England and Wales)—Emergency Hospital Organisation;

(b) as regards grants under Section 56 of the Act: to the terms of Circulars 1759 and 1800, and

(c) to any further Circulars or instructions which may be issued in regard to these matters.

9. Every local authority submitting a Statement of Expenditure shall cause the following certificates to be furnished with such Statement :—

A. A certificate by the Clerk to the Authority that

(i) subject to paragraph (ii) hereof, the following property, equipment, stores and other material have been properly maintained in good condition ; that they have not been appropriated or used for any other purpose (save as shown in a Memorandum which shall, when necessary, be attached to the certificate) ; that they remain at the date of the certificate in the control of the Authority and available in all respects for the purposes of the Act ; and that the stores, equipment, and other material under (c) are available for return or transfer if so required by the Minister. The property, equipment, stores and other material to which this certificate relates are the following, namely—

(a) The quantities of drugs and other medical stores, beds, mattresses, bedding and other ward equipment which a Local Authority are required by Section 51 (c) of the Act to acquire at their own expense and to hold available for the purposes of the Act at every hospital under the control of the Authority specified by the Minister.

(b) All property, equipment, stores and other material in respect of which grants have at any time been made under the Act by the Minister to the Local Authority or in respect of which expenditure is included in the Statement of Expenditure.

(c) All stores, equipment and other material acquired by the Minister under Sections 50 or 56 of the Act and delivered to the Local Authority or purchased by the Local Authority and held by them on behalf of His Majesty.

(ii) all stores, equipment and other material in so far as likely to deteriorate with the efflux of time and suitable to be used for hospital purposes, have, as far as is practicable, been taken into use for such purposes and have been replaced by articles of the same kind and of not inferior quality ;

(iii) proper records are maintained of all property, equipment, stores and other material as aforesaid showing the places in which equipment, stores, etc., are stored ; and

(iv) all records made for the purposes of Part VII and Section 56 of the Act remain in the control of the Local Authority and available for the purposes of the Act.

B. A certificate by the Chief Financial Officer to the Authority that the particulars set forth in the Statement are correct ; that the expenditure included in the Statement has been incurred specifically for the purposes of Section 53 and/or Section 56 as the case may be, of the Act ; and that no part of the expenditure has been or will be included in any other claim from public funds. The Chief Financial Officer shall also either certify that there were no receipts or credits relating to the period covered by the Statement which should be brought to account in the claim or shall attach to the Statement a supplementary statement giving particulars of any such receipts or credits.

10. Every Local Authority submitting a Statement of Expenditure in accordance with these Conditions shall permit the District Auditor, or any other officer of the Ministry of Health authorised by the Minister to have access to and to inspect the accounts (including all relevant documents and vouchers), records, property, medical and other stores and equipment, etc., referred to in these Conditions.

11. For the purpose of these Conditions the expression "property" includes any appliance affixed to any premises ; the expression "medical stores and equipment" has the meaning prescribed by Section 50 (6) of the Act ; and the expression "local authority" includes a combination of

Councils existing for the purpose of the provision or maintenance of hospitals being a combination which includes one or more Councils of Counties or County Boroughs. [649]

SUBSISTENCE ALLOWANCES OF COUNTY COUNCILLORS

Circular 1875

September 22, 1939

SIR,—I am directed by the Minister of Health to state that representations have been made to him by certain County Councils in regard to the expenses of a few of their members whose duties, under emergency arrangements made by the Council, may necessitate frequent and prolonged absence from their homes for attendances at meetings of emergency committees and otherwise in connection with the transaction of the Council's business. It has been pointed out that difficulties in travelling arising from lighting restrictions and curtailed services make this in some instances unavoidable.

2. The Council will be aware that, while provision is made by section 294 of the Local Government Act, 1933, for the payment of expenses necessarily incurred in travelling, there is no specific statutory authority for the payment out of County funds of subsistence allowances to their members, and the Minister has been asked to authorise the payment of such allowances in the circumstances referred to under the proviso to section 228 (1) of the Local Government Act, 1933.

3. The Minister has decided that the exceptional circumstances justify the issue of a general authority to County Councils to incur reasonable expenditure on the payment of subsistence allowances in appropriate cases. He accordingly hereby sanctions, in pursuance of his powers in that behalf, the payment by the County Council during the present emergency of reasonable subsistence allowances to members in cases where the circumstances described in the first paragraph of this letter obtain. The sanction is given subject to the following conditions, namely :—

- (a) that the number of members appointed for emergency duties will be strictly limited to the number which is essential ;
- (b) that the allowances in any case will not exceed the amounts set out in the scale appended to this circular ;
- (c) that detailed statements in respect of each claim for allowance will be submitted by the member concerned to the Chief Financial Officer of the Council ; these statements should record in detail particulars of the time during which a claimant has been actually and necessarily absent from home on the business of the Council, and should be retained for production to the District Auditor in support of the payments made.

4. An additional copy of this Circular is enclosed for the information of the Chief Financial Officer.

I am, Sir, etc.

APPENDIX

Subsistence allowances are not intended to meet the whole cost of subsistence when absent from home, but only the extra expense necessarily incurred through such absence.

The rates set out below are maximum rates, and any allowances should be initially fixed and subsequently kept under review so as to secure that they do not, in fact, exceed what is necessary to cover such extra expenditure.

Night Allowance (Period covered and amount payable)

Night subsistence allowance, covering a period of 24 hours' necessary and continuous absence from home on duty—£1 per night for the first three consecutive nights and, thereafter, 15s. per night. (This is inclusive, and no other subsistence allowance in respect of such period is authorised.)

Day Allowance (Period covered and amount payable)

Day subsistence allowance—

(a) for not less than ten hours' necessary and continuous absence from home on duty—5s. 6d.

(b) for less than ten and not less than six hours' necessary and continuous absence from home on duty—8s. [650]

FIRE PROTECTION

See also POLICE

	PAGE		PAGE
STATUTES :—		Order under Fire Brigades Act,	
Police and Firemen (War		1938, s. 6 (1) — — —	362
Service) Act, 1939 [see p. 706,		Order under Fire Brigades Act,	
post]		1938, s. 24 (1) February 22 —	366
Civil Defence Act, 1939, s. 58		Order under Fire Brigades Act,	
[see p. 65, ante]		1938, s. 24 (1) March 29 —	366
ORDERS, CIRCULARS AND MEMO-		Fire Brigade Pensions Regula-	
RANDA :—		tions, 1939 — — —	367
Defence (General) Regulations,			
1939, Regulations 27-29 —	360		

ORDERS, CIRCULARS AND MEMORANDA

DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1939, No. 927, as amended

27. Measures for dealing with outbreaks of fire.—In the event of any outbreak of fire the person having the charge and control of the operations for the extinction of the fire, and any person authorised by the Secretary of State to act under this Regulation, may take or authorise the taking of such steps, and give such directions, as appear to that person to be necessary for preventing the spread of the fire; and the steps which may be so taken include entering upon land and the destruction or removal of anything in, on or over any land. [651]

28. Powers and duties of auxiliary firemen.—(1) Auxiliary firemen shall have the same powers of entry and of taking steps for extinguishing fire or for protecting property, or rescuing persons or

property, from fire as are conferred on members of fire brigades by subsection (1) of section fourteen of the Fire Brigades Act, 1938; and accordingly that subsection shall have effect as if the reference therein to any member of a fire brigade which provides local services under that Act being on duty included a reference to any auxiliary fireman being on duty.

Subsection (2) of section fourteen of the Fire Brigades Act, 1938 (which penalises persons who wilfully obstruct or interfere with any member of a fire brigade engaged in the performance of his duty), shall have effect as if the reference in that subsection to any member of a fire brigade included a reference to any auxiliary fireman.

(2) It shall be deemed to be a condition of service of every person who has undertaken to [serve] as an auxiliary fireman—

- (a) that he shall comply with any orders given to him at any fire by the person having the charge and control of the operations for the extinction of the fire, and
- (b) [if he has undertaken to give whole-time service,] that he may be ordered to serve with his brigade outside the area of the local authority in whose service he is.

(3) This Regulation shall, in its application to Northern Ireland, have effect as if for paragraph (1) there were substituted the following paragraph :—

“(1) Any auxiliary fireman being on duty may enter, and, if necessary, break into, any premises in which a fire has or is reasonably supposed to have broken out, or any premises which it is necessary to enter for the purpose of extinguishing a fire, without the consent of the owner or occupier of the premises, and may do anything he thinks necessary for extinguishing the fire or protecting from fire any such premises or rescuing any person or property there in.

Any person who wilfully obstructs or interferes with any auxiliary fireman engaged in operations for the extinction of a fire or the protection or rescue of any person or property from fire, shall be liable on summary conviction to a fine not exceeding ten pounds”.

[652]

The words in square brackets were added by S.R. & O. 1939 No. 1184, which also substituted the word “serve” in paragraph 2 for the words “give whole-time service.”

See definitions of “fire brigade” and “local authority” in Regulation 100 (1).

For subsection (1) of section 14 of the Fire Brigades Act, 1938, see 31 Statutes 595.

29. Co-ordination of fire brigades.—The Secretary of State, if it appears to him to be necessary or expedient in the interests of the public safety or the defence of the realm so to do, may by order—

- (a) constitute as a special fire brigades area any area in the United Kingdom, specified in the order;
- (b) make provision for securing that such fire brigades as may be specified in the order are available for dealing with outbreaks of fire in any part of the said area or, if required, elsewhere, and for securing that the operations of such fire brigades for the extinction of fires are conducted as efficiently as possible;
- (c) make such provision as the Secretary of State thinks expedient with a view to securing the proper co-operation of fire brigades for the purpose of dealing with outbreaks of fire in any part of the United Kingdom, and in particular, for determining

the arrangements to be made for the assistance of one fire brigade by another for that purpose ;

- (d) provide for securing that, in such circumstances as may be specified in the order, there shall be made to any fire authority, in respect of services which in pursuance of the order are rendered by the fire brigade of that authority outside its area, and to any other person in respect of services which in pursuance of the order are rendered by any fire brigade maintained by that person, payments of such amounts, and by such persons, as may be determined by or under the order ;

and any such order may contain such incidental and supplementary provisions (including provisions for modifying or adapting any Act or regulations relating to fire brigades) as appear to the Secretary of State to be necessary or expedient for the purposes of the order. [653]

For definitions of "fire brigade" and "fire authority", see Regulation 100 (1).

The following Fire Brigade Region Orders have been made under this Regulation :—

- No. 1 (Northern) (S.R. & O. 1939 No. 1256).
- No. 2 (North Eastern) S.R. & O. 1939 No. 1257).
- No. 3 (North Midland) (S.R. & O. 1939 No. 1258).
- No. 4 (Eastern) (S.R. & O. 1939 No. 1259).
- No. 6 (Southern) (S.R. & O. 1939 No. 1261).
- No. 7 (South Western) (S.R. & O. 1939 No. 1262).
- No. 8 (Wales) (S.R. & O. 1939 No. 1263).
- No. 9 (Midland) (S.R. & O. 1939 No. 1264).
- No. 10 (North Western) (S.R. & O. 1939 No. 1265).
- No. 12 (South Eastern) (S.R. & O. 1939 No. 1267).

No. 5 has not yet been issued and the number is probably reserved for London region.

See Regulation 38, for the authority for the exercise by other Ministers of the powers conferred on the Secretary of State under this regulation.

* * * *

ORDER UNDER SECTION 6 (1) OF THE FIRE BRIGADES ACT, 1938 (1 & 2 GEO. 6, C. 72) POSTPONING THE OPERATION OF THE SUBSECTION IN RELATION TO CERTAIN PARISH AUTHORITIES

S. R. & O., 1939, No. 151

January 27, 1939

Whereas by sub-section (1) of Section six of the Fire Brigades Act, 1938, it is enacted that the Secretary of State may by order postpone the operation of the said sub-section (which relates to cessation of functions and transfer of property of parish authorities) to such date as may be specified in the order :

Now I, the Right Honourable Sir Samuel Hoare, Baronet, hereby order in pursuance of the power so conferred upon me that the operation of sub-section (1) of Section six of the Fire Brigades Act, 1938, shall be postponed, in relation to the parishes named in the Schedule to this Order, to the first day of April, 1939.

* * * *

SCHEDULE

PARISHES

Administrative County.	Rural District.			Parish.
Bedfordshire	Biggleswade	Potton.		
Berkshire	Windsor	Old Windsor.		
Buckinghamshire	Eton	Burnham.		
		Datchet.		
		Farnham Royal.		
		Gerrards Cross.		
		Wraysbury.		
		Woburn Sands.		
		Allestree.		
Derbyshire	Newport Pagnell	Darley Abbey.		
	Belper	Duffield.		
		Pentrich.		
		South Wingfield.		
Devonshire	Okehampton	Chagford.		
		Hatherleigh.		
		North Tawton.		
		Bampton.		
		Bradninch.		
		Cullompton.		
		Silverton.		
Dorsetshire	Bridport	Burton Bradstock.		
		Charmouth.		
Durham	Durham	Bearpark.		
		Belmont.		
		Kimbleworth.		
		Sherburn.		
		Sherburn Hospital.		
		Sunderland Bridge.		
		Kelloe.		
		West Rainton.		
		Witton Gilbert.		
		Burdon.		
		Castle Eden.		
		Cold Hesledon.		
		Dalton-le-Dale.		
		Easington.		
		East Murton.		
		Haswell.		
		Hawthorn.		
		Hutton Henry.		
		Monk Hesleden.		
		Nesbit.		
		Sheraton-with-Hulam.		
		Shotton.		
		Thornley.		
		Warden Law.		
		Wingate.		
		Bishop Middleham.		
		Bradbury.		
		Butterwick.		
		Chilton.		
		Cornforth.		
		Elstob.		
		Embleton.		
		Ferryhill.		
		Fishburn.		
		Foxton and Shotton.		
		Mainsforth.		
		Mordon.		
		Preston-le-Skerne.		
		Sedgefield.		
		Stillington.		
		Thrislington.		
		Trimdon.		
		Windlestone.		
		Woodham.		
Ely, Isle of	Ely	Downham.		
		Haddenham.		
		Littleport.		
		Sutton.		

Administrative County.	Rural District.			Parish.
Ely, Isle of— <i>contd.</i>	Ely— <i>contd.</i>			Witcham.
	North Witchford			Doddington.
				Manea.
Essex	Epping			Harlow.
	Ongar			Chipping Ongar.
	Rochford			Hockley.
				Rochford.
Gloucestershire	Cheltenham			Winchcombe.
	Stroud			Stonehouse.
Herefordshire	Ledbury			Colwall.
Huntingdonshire	Huntingdon			Leighton.
Kent	Dover			St. Margarets-at-Cliffe.
				Sibertswold.
	Hollingbourn			Headcorn.
				Sutton Valence.
	Malling			Aylesford.
				Snodland.
				West Malling.
				Wouldham.
	Sevenoaks			Seal.
	Strood			Cliffe.
				Cobham.
				Cuxton.
				Halling.
				Hoo.
Lancashire	Fylde			Medlar-with-Wesham.
Leicestershire	Lutterworth			Lutterworth.
	Market Bosworth			Ibstock.
				Shackerstone.
				Sheepy.
				Twycross.
				Witherley.
Lincolnshire	Isle of Axholme			Crowle.
				Epworth.
				Haxey.
				Wroot.
Norfolk	Depwade			Redenhall with Harleston.
				Dickleburgh.
	Erpingham			Holt.
				Mundesley.
	Mitford and Launditch			Shipdham.
	Walsingham			Fakenham.
Northamptonshire				Little Walsingham.
	Daventry			Everdon.
				Long Buckby.
	Northampton			Ashton.
				Harpole.
				Hartwell.
				Roads.
				Yardley Hastings.
	Oundle and Thrapston			Brigstock.
				Thrapston.
Nottinghamshire	Southwell			Averham.
				Bathley.
				Bilthorpe.
				Bleasby.
				Blidworth.
				Boughton.
				Carlton-on-Trent.
				Caunton.
				Clipstone.
				Cromwell.
				Edingley.
				Edwinstone.
				Farnsfield.
				Fisherton-cum-Morton.
				Halam.
				Halloughton.
				Hockerton.
				Hoveringham.
				Kelham.
				Kersall.
				Kirklington.
				Kirton.

Administrative County.	Rural District.	Parish.
Nottinghamshire— <i>contd.</i>	Southwell— <i>contd.</i>	Kneesall. Laxton. Maplebeck. North Muskham. Norwell. Ollerton. Ompton. Ossington. Perlethorpe-cum-Budby. Rolleston. Rufford. South Muskham. Southwell. Staythorpe. Sutton-on-Trent. Thurgarton. Upton. Walesby. Wellow. Winkburn.
Oxfordshire	Witney	Bampton. Burford. Eynsham. Caster.
Peterborough, Soke of ..	Peterborough	Eye. Glinton. Newborough.
Rutland	Uppingham	Uppingham.
Shropshire	Ludlow	Gleobury Mortimer.
	Oswestry	Weston Rhyn. Whittington.
Somerset	Axbridge	Bladon. Cheddar.
	Chard	Wincombe. Hinton St. George. Ilminster (Without). Merriott. West Crewkerne.
	Long Ashton	Nailsea. Yatton.
Southampton	Alton	Grayshott.
	Winchester	Hamble. Otterbourne. West End.
Suffolk	Thingoe	Ixworth.
Surrey	Hambledon	Chiddingfold. Cranleigh.
Sussex	Battle	Battle. Ditchling.
	Chailey	Hurstpierpoint.
	Cuckfield	Uckfield.
Warwickshire	Alcester	Alcester. Bidford. Sambourne. Studley.
	Shipston-on-Stour	Shipston-on-Stour.
Wiltshire	Devizes	Market Lavington. West Lavington.
	Highworth	Bishopstone. Blunsdon St. Andrew. Castle Eaton. Chisledon. Hannington. Haydon Wick. Highworth. Inglesham. Liddington. South Marston. Stanton Fitzwarren. Stratton St. Margaret. Wanborough. Wroughton.
Caernarvon	Nant Conway	Dolwyddelan. Frefriw.

Administrative County.	Rural District.	Parish.
Glamorgan	Neath	Blaengwrach. Dulais Higher. Dulais Lower. Neath Higher. Resolven. Corwen. St. Mellons.
Merioneth	Edeyrnion	
Monmouth	Magor and St. Mellons ..	

[654]

ORDER UNDER SECTION 24 (1) OF THE FIRE BRIGADES ACT, 1938 (1 & 2 GEO. 6, C. 72) REVOKING THE ORDER DATED JANUARY 27, 1939, UNDER SECTION 6 (1) OF THE SAID ACT, IN SO FAR AS THAT ORDER RELATES TO THE PARISH OF UCKFIELD

S. R. & O., 1939, No. 212

February 22, 1939

Whereas by an order made by me on the twenty-seventh day of January, 1939, under subsection (1) of section six of the Fire Brigades Act, 1938, the operation of the said subsection was postponed, in relation to the parish of Uckfield, and other parishes named in the Schedule to the said order, to the first day of April, 1939 :

And whereas by subsection (1) of section twenty-four of the said Act it is enacted that any order made by the Secretary of State under the said Act may be revoked by a subsequent order made in like manner :

Now I, the Right Honourable Sir Samuel Hoare, Baronet, hereby by order revoke in pursuance of the power so conferred upon me the said order in so far as the said order relates to the parish of Uckfield.

This order shall come into force on the twenty-third day of February, 1939.

* * * * *

[655]

ORDER UNDER SECTION 24 (1) OF THE FIRE BRIGADES ACT, 1938 (1 & 2 GEO. 6, C. 72) VARYING THE ORDER OF JANUARY 27, 1939, BY FURTHER POSTPONING THE OPERATION OF SECTION 6 (1) OF THE SAID ACT IN RELATION TO CERTAIN PARISH AUTHORITIES

S. R. & O., 1939, No. 459

March 29, 1939

Whereas by an order made by me on the twenty-seventh day of January, 1939, under subsection (1) of section six of the Fire Brigades Act, 1938, the operation of the said subsection was postponed, in relation to the parishes named in the Schedule to the said order, to the first day of April, 1939 :

And whereas by subsection (1) of section twenty-four of the said Act it is enacted that any order made by the Secretary of State under the said Act may be varied by a subsequent order made in like manner :

Now, I, the Right Honourable Sir Samuel Hoare, Baronet, hereby by order vary, in pursuance of the power so conferred upon me, the said order so that the operation of subsection (1) of section six of the Fire Brigades Act, 1938, shall be postponed, in relation to the parishes named in the Schedule to this order, to the first day of July, 1939.

* * * * *

SCHEDULE

PARISHES

Administrative County.	Rural District.	Parish.
Dorset.. ..	Bridport	Burton Bradstock. Charmouth. Doddington. Manea. Colwall.
Ely, Isle of	North Witchford	Hinton St. George. Ilminster (Without). Merriott. West Crewkerne.
Hereford	Ledbury	Alcester. Bidford. Studley.
Somerset	Chard	Blaengwrach. Dulais Higher. Dulais Lower. Neath Higher. Resolven.
Warwick	Alcester	
Glamorgan	Neath	

[656]

FIRE BRIGADE PENSIONS REGULATIONS, 1939

S. R. & O., 1939, No. 592

(99973)

May 30, 1939

The Minister of Health, in exercise of the powers conferred on him by paragraph (a) of subsection (4) of section 17 of the Fire Brigades Act, 1938, and of all other powers enabling him in that behalf, hereby makes the following Regulations.

1. These Regulations may be cited as the Fire Brigade Pensions Regulations, 1939.

2.—(1) In these Regulations the following expressions have the respective meanings hereby assigned to them :—

“ the Act of 1938 ” means the Fire Brigades Act, 1938 ;

“ the Act of 1925 ” means the Fire Brigade Pensions Act, 1925 ;

“ the Act of 1922 ” means the Local Government and other Officers' Superannuation Act, 1922.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

3. Any person who, being at the passing of the Act of 1938 the

holder of a post by virtue of which he was or was being treated as subject to the Act of 1922, became by virtue of section 17 of the Act of 1938 a professional fireman and who, by reason of his not exercising his option under subsection (3) of that section, becomes a person to whom the Act of 1925 applies and is deemed to have applied as from the passing of the Act of 1938 shall be entitled to reckon as a period of approved service for the purpose of the grant of pensions, allowances and gratuities under the Act of 1925 three-quarters of the aggregate length of the following periods of service, namely—

- (a) the total period of all service with any local authority which immediately before the passing of the Act of 1938 he was entitled to reckon as contributing service for the purposes of the Act of 1922; and
- (b) one half the total period of all (if any) service with any local authority which immediately before the passing of the Act of 1938 he was entitled to reckon as non-contributing service for the purposes of the Act of 1922 :

Provided that if any such previous service was part-time service the period thereof shall be treated as though it were whole-time service for a proportionately reduced period. [657]

FIREMEN

See FIRE PROTECTION

FOOD AND DRUGS

ORDERS, CIRCULARS AND MEMORANDA :—

PAGE

Public Analysts Regulations, 1939 - - - - - - - 368

ORDERS, CIRCULARS AND MEMORANDA

PUBLIC ANALYSTS REGULATIONS, 1939

S. R. & O., 1939, No. 840

(101745)

August 1, 1939

Whereas it is provided by subsection (2) of section 66 of the Food and Drugs Act, 1938, that no person shall be appointed a public analyst unless he possesses either the prescribed qualifications or such other qualifications as the Minister of Health may approve ;

And whereas it is provided by subsection (3) of section 69 of the said Act that the public analyst shall analyse as soon as practicable any sample sent to him in pursuance of that section and give to the person by whom it was submitted a certificate in the prescribed form specifying the result of the analysis :

Now therefore the Minister of Health in exercise of the powers con-

ferred upon him by the said sections and of all other powers enabling him in that behalf hereby makes the following regulations :—

1. These regulations may be cited as the Public Analysts Regulations, 1939, and shall come into operation on the first day of October, 1939.

2. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3. A person shall not be qualified to be hereafter appointed as a public analyst under the Food and Drugs Act, 1938, unless either (a) he already holds an appointment as public analyst, or (b) he is the holder of the Diploma of Fellowship or Associateship of the Institute of Chemistry of Great Britain and Ireland and is also the holder of a certificate granted by that Institute after an examination conducted by them in the chemistry (including microscopy) of food, drugs and water.

4. The form set out in the schedule to these regulations is hereby prescribed as the form of certificate to be used by public analysts for the purpose of section 69 of the Food and Drugs Act, 1938.

* * * * *

SCHEDULE

FOOD AND DRUGS ACT, 1938

*Form of Certificate of Public Analyst prescribed by the Minister of Health
under Section 69 (3) of The Food and Drugs Act, 1938*

To¹

I, the undersigned, public analyst for the,
do hereby certify that I received on the.....day of.....
...19....., from²..... (by registered post)³,
a sample submitted as a sample of....., for analysis
which was marked⁴.....and weighed (or measured)⁵
.....

I further certify that I have analysed it, and as a result of my analysis
I am of opinion that :—

it is a sample of.....
and/or

the constituents of the sample included the following substances in
proportions as under :—

.....
.....

Observations⁶

.....
.....

As witness my hand this.....day of.....
19..... at.....

A.B.

Notes.

,Here insert the name of the person submitting the sample for analysis.

,Here insert the name of the person delivering or sending the sample.

,Delete if inapplicable.

,Insert particulars of marking, e.g. date, number, etc.

,This may be left unanswered if the sample cannot be conveniently weighed or measured, or the weight or measurement is not material to the result of the analysis.

,Here the analyst may insert at his discretion his opinion whether the analysis indicates any addition, abstraction, or deficiency of any kind and whether the addition, abstraction or deficiency (if any) was for the purpose of rendering the article portable or palatable, or of preserving it, or of improving the appearance, or was unavoidable. He may also state whether the addition, abstraction or deficiency is in excess of what is ordinary, or otherwise, and whether it is or is not injurious to health, and add any other observations he may wish to make. Where a sample of milk is found to be deficient both in milk fat and in other milk solids the analyst should indicate how much, if any, of the milk fat deficiency he considers to be due to abstraction, allowance being made for the effect of added water. In the case of a certificate regarding milk, or any other article liable to decomposition, the analyst should specially report whether in his opinion any change had taken place in the constitution of the sample that would interfere with the analysis. [658]

GAS

PAGE

CASES :—

Hanson v. Wearmouth Coal Co., Ltd. and Sunderland Gas Co., [1939] 3 All
E. R. 47—C. A. — — — — — 370

CASES

Nuisances from Gas—Liability of Undertakings—Breakage of Main by Reason of Subsidence Due to Mining Operations—Mining Company Entitled to Let Down Surface—Tort—Contribution between Joint Tortfeasors—No Appeal against one Tortfeasor—Duty of Court of Appeal—Law Reform (Married Women and Tortfeasors) Act, 1935 (c. 30), s. 6.

As a result of the operations of the first defendants, the W. Coal Co., a gas main belonging to the second defendants, the S. Gas Co., and situate under a public road was broken. The gas escaped and caused an explosion in a neighbouring house occupied by plaintiff, thereby doing serious damage to plaintiff's furniture and effects. In this action against the coal company and the gas company alleging that one or the other or both were negligent, and guilty of creating a dangerous nuisance, it was admitted by the gas company that they had no right to claim support for their main as against the coal company, who were working a seam some 1,600 feet below the surface within their rights under a lease from the Ecclesiastical Comrs. The lease permitted the lessees to let down the surface subject to payment of compensation. For some time before the explosion in question, there had been subsidences in the neighbourhood, and on previous occasions gas mains had been damaged in consequence of mining operations. The evidence was that the gas company took no steps to prevent the escape of gas in the event of a subsidence. The judge below dismissed the action against the coal company, but found for plaintiff against the gas company, and awarded him damages, on the ground that the gas company had been negligent in not taking steps to prevent the danger resulting from the withdrawal of support for the gas main. The gas company appealed, on the ground that they had not been

negligent, and it was contended by the coal company that, as plaintiff had not appealed against the decision in their favour the Court of Appeal were not entitled to consider the question of contribution between defendants under the Law Reform (Married Women and Tortfeasors) Act, 1935 :—

Held : (i) the gas company were negligent in not taking such precautions as were possible to prevent the danger of the gas escaping and doing damage and in laying their main upon ground the support of which, to their knowledge, would ultimately be withdrawn ;

(ii) had the Court of Appeal come to the conclusion that both defendants were liable, it would have been their duty to give effect to the right of contribution then arising, although plaintiff was content with judgment against one defendant.—HANSON *v.* WEARMOUTH COAL CO., LTD. AND SUNDERLAND GAS CO., [1939] 3 All E. R. 47 ; 55 T. L. R. 747 ; 83 Sol. Jo. 397 ; Digest Supp.—C. A. [659]

HARBOURS, DOCKS AND WHARVES

STATUTES :—	PAGE	Civil Defence Act, 1939, s. 41	PAGE
Coast Protection Act, 1939	- 371	[see p. 51, ante]	

STATUTES

THE COAST PROTECTION ACT, 1939

(2 & 3 Geo. 6, c. 39)

INTRODUCTORY NOTE

THIS Act takes the place of ss. 14, 28 of the Harbours Act, 1814 (18 Statutes 42, 44). By s. 14 of that Act, as amended by s. 16 of the Harbours Transfer Act, 1862 (18 Statutes 123), it was provided that no person or persons should take any ballast or shingle from the shores or banks of any port, harbour, or haven from which the Board of Trade should find it necessary for the protection of such port, harbour, or haven by order to prohibit the taking of such shingle or ballast on pain of a penalty of £10. And by s. 28 it was provided that nothing in that Act should prejudice, alter, or take away any right of property, privilege, or jurisdiction or any powers of conservancy held, used, or enjoyed by any body corporate or any lord of a manor or any person whatsoever in or over any port, harbour, etc.

The present Act is based on the old provisions, but, in the words of its long title, makes further and better provision for the protection of the coast of Great Britain, especially in regard to the procedure for the making of orders under the Act, and the effect of such orders.

An Act to make further and better provision for the protection of the coast of Great Britain against erosion ; and for other purposes connected with the matter aforesaid. [660] [13th July, 1939.]

1. Power of Board of Trade to restrict excavation, &c., of materials on or under the seashore.—(1) Where the Board of Trade are of opinion

that it is desirable for the protection of any part of the coast of Great Britain from erosion, or for the prevention of damage to any lands, including harbour works, by the action of the sea, that such an order as is hereinafter mentioned should be made, the Board may, subject to compliance with the provisions contained in the First Schedule to this Act (relating to procedure, the holding of public inquiries, and the approval or confirmation of orders by Parliament) by order prohibit, restrict or impose conditions as to the excavation, removal or other disturbance of all or any materials, on, under or forming part of such portions of the seashore as may be specified in the order, except minerals more than fifty feet below the surface.

Provided that, where the Board are satisfied that on account of urgency it is expedient that an order should be made forthwith, they may make an interim order without complying with the provisions contained in the said Schedule, but any such interim order shall only continue in force until an order made in compliance with such provisions as aforesaid comes into force or until the Board have decided that it is not expedient that such an order should be made, and if no such order is made by the Board within six months after the making of the interim order, the Board shall be deemed to have decided that it is not expedient to make an order. [661]

(2) An order under this section, whether or not confirmed by Parliament, may be revoked, or amended by a subsequent order made under and in accordance with this section. [662]

(3) An order under this section may apply to any seashore—

- (a) belonging to His Majesty in right of the Crown ;
- (b) belonging to His Majesty in right of the Duchy of Lancaster ;
- (c) forming part of the possessions of the Duchy of Cornwall.

[663]

(4) Every order made under this section shall be binding on the Crown. [664]

(5) An order made under this section shall be binding on all persons, including the owners of and persons interested in any part of the seashore comprised in the order, and any drainage authority or harbour, local or other authority having jurisdiction over the area comprised in the order or any part thereof, and all highway authorities, and shall have effect notwithstanding the provisions of any public general or local or private Act, or any alleged custom or prescriptive right to the contrary :

Provided that, if it appears to the Board of Trade that such an order will operate to prevent or impede the performance by any person of any duty imposed upon him, the order may for the purpose of relieving the person from the duty or from any penalty, liability or disability attaching to the non-performance thereof, repeal or modify the provisions of any local Act to such extent and in such manner as the Board think proper. [665]

(6) Where such an order is in force as respects any part of the seashore, the Board of Trade may grant to any person a licence to do any act or thing which would otherwise be unlawful by virtue of the order. Any such licence may be either absolute or subject to conditions. [666]

(7) When an order has been made under this section, any person who, without such licence as aforesaid, acts in contravention of the order, or who having obtained such a licence contravenes or fails to

comply with any condition subject to which the licence was granted, shall be guilty of an offence under this section and shall be liable on summary conviction to a fine not exceeding fifty pounds and in the case of a continuing offence to an additional fine not exceeding five pounds for every day during which, after the person has been convicted thereof, the offence continues. [667]

(8) Nothing in this section, or in any licence granted thereunder, shall affect the right of any person to prohibit, restrict or impose conditions as to the excavation, removal or other disturbance of any materials if he might have exercised that right if no order had been made under this section :

Provided that in the exercise of any such right no person may permit the doing of any act or thing which would otherwise be unlawful by virtue of an order made under this section. [668]

(9) No order made under this section shall apply to the seashore adjacent to so much of any channel or river as is above any lock or sluice. [669]

(10) Section fourteen of the Harbours Act, 1814, as amended by section sixteen of the Harbours Transfer Act, 1862 (which enables the Board of Trade to prohibit the removal of shingle and ballast from the shores or banks of ports, harbours and havens), and section twenty-eight of the said Act of 1814 (which provides that nothing in the said Act shall affect certain rights or powers enjoyed or exercised by corporations, lords of manors and other persons) shall cease to have effect :

Provided that any order in force at the date of the passing of this Act under the said section fourteen shall continue in force notwithstanding the repeal of that section and shall, for all the purposes of this Act, be deemed to be an order made under this section. [670]

For s. 14 of the Harbours Act, 1814, see 18 Statutes 42 ; and for s. 28 of that Act, see *ibid.* 44.

(11) Where the Board of Trade cause any inquiry to be held under this Act, the Board may direct that the whole or any part of the costs incurred by the Board in relation to such inquiry (including the remuneration of any independent engineer appointed to hold the inquiry, and such reasonable sum not exceeding five guineas a day as the Board may determine for the services of any officer of the Board engaged in the inquiry) shall be paid, as the Board may direct, by any person who applied for the order or objected to the order being made, and the Board may certify the amount of costs to be paid by any person, and any amount so certified shall be recoverable as a debt due to the Crown or summarily as a civil debt. [671]

(12) For the purposes of this Act, unless the context otherwise requires :—

The expression “ coast ” includes the banks of any estuary or of any tidal river so far up that river as the tide flows.

The expression “ materials ” includes minerals and growing seaweed, but does not include drift seaweed.

The expressions “ harbour authority ” and “ conservancy authority ” have the same meanings as in the Merchant Shipping Act, 1894.

For the meaning of “ harbour authority ” and “ conservancy authority ” in the Merchant Shipping Act, 1894, see s. 742 of that Act (18 Statutes 412).

The expression “ minerals ” includes coal and stone and any metallic or other mineral substance.

The expression "navigation authority" means any person or body of persons having powers under any Act of Parliament to work or maintain a canal or other inland navigation (including a navigation in tidal water).

The expression "seashore" means the bed and shore of the sea and of every channel, creek, bay or estuary, and of every river so far up that river as the tide flows, and any cliff, bank, barrier, dune, beach, flat or other land adjacent to the shore.

The expression "local Act" includes a provisional order confirmed by Parliament. [672]

2. Savings.—(1) Nothing in this Act shall affect the powers conferred upon the Admiralty under the Dockyard Port Regulation Act, 1865. [673]

For the Dockyard Port Regulation Act, 1865, see 18 Statutes 128.

(2) Nothing in this Act or any order made thereunder shall affect any powers or duties of the Postmaster General under the provisions of the Telegraph Acts, 1863 to 1926. [674]

For the Telegraph Acts, 1863 to 1926, see 19 Statutes 219 *et seq.*

(3) Nothing in this Act or any order made thereunder shall take away, diminish, or prejudice any rights, powers, or privileges in relation to conserving, maintaining, or improving the navigation of a tidal water or constructing, improving, repairing, or maintaining a dock, wharf, pier, embankment, or other work conferred by any public general or local or private Act on any harbour authority, conservancy authority, or navigation authority. [675]

(4) Nothing in this Act or any order made thereunder shall take away, diminish, or prejudice any powers to construct and maintain sea defence works (including river embankments), conferred upon any person by any public general or local or private Act. [676]

3. Provisions as to acts of Board of Trade.—Anything required or authorised by or under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board, any secretary, under secretary or assistant secretary of the Board or any person authorised in that behalf by the President. [677]

[4. Application to Scotland.] [678]

5. Short title, repeal and extent.—(1) This Act may be cited as the Coast Protection Act, 1939.

(2) The enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) This Act shall not extend to Northern Ireland. [679]

SCHEDULES

FIRST SCHEDULE

Sect. 1.

PROCEDURE FOR MAKING ORDERS UNDER SECTION ONE

PART I

General Provisions.

1. Before making an order under section one of this Act, the Board of Trade shall cause notice of their intention to make the order and of the place

where copies of the draft order may be inspected and obtained, and of the time within and manner in which objections to the draft order may be made, to be published in the London Gazette and in such other manner as they think best adapted for informing persons affected.

2. The Board shall consider any objections which may be duly made to the draft order, and may in any case order a public local inquiry to be held with respect to any objections to the draft order.

3. Where any such local inquiry is held, the Board shall consider the report of the person holding the inquiry and shall make such modifications of the draft order, if any, as they think expedient in consequence of the report.

4. After a draft order has been settled by the Board, the Board shall publish the draft in such manner as they think best adapted for informing persons affected, together with a notice that the draft order as so settled is to be laid before Parliament for approval in accordance with the subsequent provisions of this Part of this Schedule unless within such period, not being less than thirty days, as may be stated in the notice, a memorial is presented to the Board by some person having an interest, right or privilege conferred on him by any local or private Act which would be affected by the order, specifying the interest, right or privilege claimed and praying that the order shall not become law without confirmation by Parliament in accordance with Part II of this Schedule.

5. If no such memorial has been presented within the said period, or if every such memorial has been withdrawn, the Board may cause the draft order as so settled to be laid before both Houses of Parliament, and if both Houses by resolution approve the draft, the Board may make the order and the order on being so made shall be of full force and effect.

6. If any such memorial has been presented as aforesaid and has not been withdrawn, the Board may make the order, but any order so made shall be provisional only and shall have no effect unless and until confirmed by Parliament. [680]

PART II.

Provisional Orders.

1. The Board may submit to Parliament for confirmation any provisional order made by them in pursuance of this Schedule.

2. If while the Bill confirming any such order is pending either House of Parliament, a petition is presented against any order comprised therein the Bill so far as it relates to that order may be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of private Bills.

3. The Board may revoke either wholly or partially any provisional order made by them before the order is confirmed by Parliament, but such a revocation shall not be made while the Bill confirming the order is pending in either House of Parliament. [681]

Sect. 5.

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
54 Geo. 3, c. 159 – 25 & 26 Vict. c. 69	The Harbours Act, 1814 – The Harbours Transfer Act, 1862.	Sections fourteen and twenty-eight. In section sixteen the words "four- teen and".

[682]

HIGHER EDUCATION

See EDUCATION

HIGHWAYS

See also BUILDING

	PAGE		PAGE
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		East Barnet Urban District Council v. Stacey, [1939] 2 All E.R. 621, D. C. — — — —	384

ORDERS, CIRCULARS AND MEMORANDA

DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O. 1939 No. 927 as amended

* * * * *

16. Control of highways over or near defence works and protected places.—(1) A Secretary of State [or the Minister of Supply], if he considers it necessary in the interests of the defence of the realm so to do, may by order provide for the stopping up or diversion of any highway passing through, and for prohibiting or restricting the exercise of any right of way over, or the use of any waterway passing through—

- (a) any premises used or appropriated for use in His Majesty's service, or
- (b) any premises used or appropriated for the performance of any services designated by the Secretary of State [or the Minister of Supply] for the purposes of this Regulation, being services which appear to him to be essential for the defence of the realm or the efficient prosecution of war or to be essential to the life of the community, or
- (c) land adjoining any such premises as aforesaid or adjoining any protected place.

(2) In relation to any premises or protected place in the possession or under the control of the Admiralty, paragraph (1) of this Regulation shall have effect as if for the reference therein to a Secretary of State [or the Minister of Supply] there were substituted references to the Admiralty. [688]

The words in brackets were added by Article 4 of S. R. & O., 1939, No. 1682.

The normal procedure for the stopping up or diversion of highways is by means of an order of quarter sessions made upon a certificate of two justices. For the procedure, *see* Halsbury (Hailsham Edition), Vol. 16, pp. 265 *et seq.*, and ss. 84-92 of the Highway Act, 1835 (9 Statutes 97 *et seq.*).

* * * * *

70. Traffic on highways.—(1) Without prejudice to any other of these Regulations, the Minister of Transport may by order provide for the regulation of traffic on highways, and, without prejudice to the generality of the power aforesaid, any such order may in particular provide—

- (a) for determining the routes to be followed by any particular class of vehicles proceeding on highways, either generally or in such circumstances as may be determined by or in accordance with the order ;
- (b) for prohibiting or regulating the use of vehicles or any class of vehicles on highways or the use by vehicles of specified roads or classes of roads, either generally or in such circumstances as may be so specified ;

and may be made so as to apply either generally or to any specified area, and may make different provision for different parts of the area to which the order applies.

(2) This Regulation shall, in its application to Northern Ireland, have effect as if for the reference to the Minister of Transport there were substituted a reference to the Secretary of State. [684]

71. Maintenance of highways.—(1) Where any person is under a duty to improve or maintain a highway, the Minister of Transport may give such directions with respect to the manner in which that duty is to be performed as he thinks necessary in the interests of the defence of the realm, the public safety or the efficient prosecution of war.

The preceding provisions of this paragraph shall apply in relation to any bridge over or under a highway, and to any tunnel in the course of a highway, as they apply in relation to a highway.

(2) If any directions given under this Regulation are not complied with by the person to whom they are given, then (without prejudice to any proceedings which may be taken in respect of the offence) the Minister of Transport may cause to be done all such work as may be necessary for securing compliance with the directions.

(3) A local highway authority, if authorised in that behalf by the Minister of Transport, may do on his behalf any work which he is authorised to cause to be done under paragraph (2) of this Regulation.

(4) For the purposes of this Regulation in its application to Scotland the expression "local highway authority" means the county or town council responsible for the maintenance and management of the roads in the area in which is situated the highway with respect to which directions have been given under this Regulation.

(5) This Regulation shall, in its application to Northern Ireland; have effect subject to the following modifications :—

- (a) for references to the Minister of Transport there shall be substituted references to the Secretary of State ; and
- (b) the expression "local highway authority" means a local authority by whom roads or streets are maintainable. [685]

See the Pont at Elan Bridge Road Order (S. R. & O., 1939, No. 1716).

[71A. **Control of road works in London Traffic Area.**—(1) The operation of section four of the London Traffic Act, 1924 (which relates to the closing for works of streets in the London Traffic Area), shall be suspended during the continuance in force of this Regulation.

(2) No works of such a nature as will involve any substantial interference with vehicular traffic shall be commenced in the London Traffic Area—

(a) by a road authority, for the purposes of road maintenance or improvement; or

(b) by undertakers in the exercise of any powers to break up streets: without the previous consent of the Minister of Transport:

Provided that this paragraph shall not apply to works to be carried out in cases of emergency, or to works to be carried out by undertakers for making, altering, repairing, or disconnecting service connections.

(3) In this Regulation the expressions "London Traffic Area", "road authority" and "undertakers", have the same meanings respectively as in the said Act.] [686]

This regulation was added by S. R. & O., 1939, No. 1629.

For s. 4 of the London Traffic Act, 1924, see 19 Statutes 175, 176.

* * * * *

TRUNK ROADS (BUILT-UP AREAS) (NO. 1) ORDER, 1939

S. R. & O., 1939, No. 183

January 27, 1939

The Minister of Transport under and by virtue of the powers conferred on him by sub-section (4) of Section 1 of the Road Traffic Act, 1934, as amended by sub-section (2) of Section 3 of and Part I of the Third Schedule to the Trunk Roads Act, 1936, hereby orders and directs as follows:—

1. The lengths of road specified in the First Schedule hereto shall be deemed not to be roads in built-up areas for the purposes of the said Section 1.

2. The lengths of road specified in the Second Schedule hereto shall be deemed to be roads in built-up areas for the purposes of the said Section 1.

3. This Order may be cited as "The Trunk Roads (Built-up Areas) (No. 1) Order, 1939".

4. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament.

FIRST SCHEDULE

LONDON—CARLISLE—GLASGOW—INVERNESS TRUNK ROAD

County of Derby.

A.6 Derby—Belper Road, Burley Hill:—From a point 470 feet south-east of its junction with Quarndon Road to a point 1,150 feet south-east of that junction.

EXETER—LEEDS TRUNK ROAD

County of Derby.

A.61 Derby—Ripley Road, Lower Kilburn:—From a point 640 feet north of the milestone "Chesterfield 18: Derby 5½" to a point 1,465 feet north of that milestone.

LIVERPOOL—LEEDS—HULL TRUNK ROAD

County of York (West Riding).

- A.63 Leeds—Selby Road, Brayton :—From a point 275 yards east of its junction with Sandhill Lane eastwards for a distance of 250 yards.

SECOND SCHEDULE

LONDON—EDINBURGH—THURSO TRUNK ROAD

County of York (North Riding).

- A.1 Catterick—Darlington Road, Barton :—From a point 80 yards south-west of Barton Hall south-westwards for a distance of 40 yards.

EXETER—LEEDS TRUNK ROAD

County of Somerset.

- A.38 Wellington—Bridgwater Road, Bishop's Hull Without :—From the western boundary of the Borough of Taunton south-westwards for a distance of 400 yards.

LIVERPOOL—PRESTON—LEEDS TRUNK ROAD

County of Lancaster.

- A.59 Liverpool—Ormskirk Road, Aintree :—From the south side of Copy Lane (B.5194) northwards for a distance of 355 yards.

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[687]

TRUNK ROADS (BUILT-UP AREAS) (NO. 2) ORDER, 1939

S. R. & O., 1939, No. 248

February 17, 1939

The Minister of Transport under and by virtue of the powers conferred on him by sub-section (4) of Section 1 of the Road Traffic Act, 1934, as amended by sub-section (2) of Section 3 of and Part I of the Third Schedule to the Trunk Roads Act, 1936, hereby orders and directs as follows :—

1. Every length of road specified in the Schedule hereto shall be deemed to be a road in a built-up area for the purposes of the said Section 1.

2. This Order may be cited as "The Trunk Roads (Built-up Areas) (No. 2) Order, 1939".

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament.

SCHEDULE

LONDON—BRISTOL TRUNK ROAD

County of Somerset.

- A.4 Bath—Chippenham Road, Swainswick :—From the Bath County Borough boundary at Lamb Bridge north-eastwards to the north-eastern side of the entrance to the house known as "Watendlath".

LONDON—CARLISLE—GLASGOW—INVERNESS TRUNK ROAD

County of Lancaster.

- A.6 Lancaster—Carnforth Road, Slyne :—From a point 100 yards north of Halton Road southwards to a point 50 yards south of the house known as "Croftlands".

NORMAN CROSS—GRIMSBY TRUNK ROAD

County of Lincoln (Parts of Lindsey).

A.16 Louth—Spilsby Road, Louth :—From Mill Lane southwards for a distance of 43 yards to the Cemetery entrance.

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[688]

TRUNK ROADS (BUILT-UP AREAS) (NO. 3) ORDER, 1939

S. R. & O., 1939, No. 514

April 19, 1939

The Minister of Transport under and by virtue of the powers conferred on him by sub-section (4) of Section 1 of the Road Traffic Act, 1934, as amended by sub-section (2) of Section 3 of and Part I of the Third Schedule to the Trunk Roads Act, 1936, hereby orders and directs as follows :—

1. The direction contained in the Order specified in Column 1 of the First Schedule hereto in relation to the length of road specified in Column 2 of the said Schedule is hereby revoked.

2. The lengths of road specified in the Second Schedule hereto shall be deemed not to be roads in built-up areas for the purposes of the said Section 1.

3. The lengths of road specified in the Third Schedule hereto shall be deemed to be roads in built-up areas for the purposes of the said Section 1.

4. This Order may be cited as “ The Trunk Roads (Built-Up Areas) (No. 3) Order, 1939 ”.

5. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament.

FIRST SCHEDULE

EXETER—LEEDS TRUNK ROAD

Column 1.	Column 2.
“ The Devon County Council (Built-Up Areas) No. 1 Order, 1936 ”.	Exeter-Taunton Road (A.38), Broadclyst : from the cross roads at Black Dog to Hillhead.

SECOND SCHEDULE

LONDON—BRISTOL TRUNK ROAD

County of Berkshire.

A.4. Maidenhead—Reading Road, Earley :—From Pitts Lane to Whitegates Lane.

LONDON—CARLISLE—GLASGOW—INVERNESS TRUNK ROAD

County of Bedford.

A.6. St. Albans—Luton Road, Luton :—From the street lamp at “ Dollens ”, No. 147, London Road, north-westwards for a distance of 85 yards.

County of Northampton.

A.6. Kettering—Market Harborough Road, Desborough :—From a point two yards north-west of the entrance to “ Hibernia ” south-eastwards for a distance of 44 yards.

WINCHESTER—PRESTON TRUNK ROAD

County of Stafford.

- A.34. Stafford—Cannock Road, Stafford :—From the slip road between Routes A.34 and A.513 at Weeping Cross southwards for a distance of 1,087 yards.

EXETER—LEEDS TRUNK ROAD

County of Worcester.

- A.38. Worcester—Birmingham Road, Droitwich :—From the southern boundary of Droitwich Borough north-eastwards for a distance of 317 yards.

NEWPORT—SHREWSBURY TRUNK ROAD

County of Hereford.

- A.49. Leominster—Hereford Road, Hereford :—From a point 12 yards south of the Hereford City Boundary southwards for a distance of 758 yards.

SWANSEA—MANCHESTER TRUNK ROAD

County of Denbigh.

- A.483. Ruabon—Wrexham Road, Esclusham Below :—From the entrance to Fynnant Farm northwards to a point 130 yards south-west of its junction with Bent Lane.

THIRD SCHEDULE

LONDON—NORWICH TRUNK ROAD

County of West Suffolk.

- A.11. Newmarket—Great Chesterford Road, Newmarket :—From Dullingham Road (B.1061) south-westwards for a distance of 263 yards.

EXETER—LEEDS TRUNK ROAD

County of Devon.

- A.38. Exeter—Taunton Road, Black Dog, Broadclyst :—From a point six yards south of Jarvishayes Cross northwards for a distance of 226 yards.

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TRUNK ROADS (BUILT-UP AREAS) (NO. 4) ORDER, 1939

S. R. & O., 1939, No. 713

June 12, 1939

The Minister of Transport under and by virtue of the powers conferred on him by sub-section (4) of Section 1 of the Road Traffic Act, 1934, as amended by sub-section (2) of Section 3 of and Part I of the Third Schedule to the Trunk Roads Act, 1936, hereby orders and directs as follows :—

1. The direction contained in the Order specified in Column 1 of the First Schedule hereto in relation to the length of road specified opposite thereto in Column 2 of the said Schedule is hereby revoked.

2. The lengths of road specified in the Second Schedule hereto shall be deemed not to be roads in built-up areas for the purposes of the said Section 1.

3. The lengths of road specified in the Third Schedule hereto shall be deemed to be roads in built-up areas for the purposes of the said Section 1.

4. This Order may be cited as "The Trunk Roads (Built-Up Areas) (No. 4) Order, 1939".

5. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament.

FIRST SCHEDULE

BIRMINGHAM—BIRKENHEAD TRUNK ROAD

Column 1.

"The Urban District Council of Coseley (Built-up Areas) Order, 1935".

Column 2.

The Birmingham—Wolverhampton Road from the Coseley—Wolverhampton boundary to the Coseley—Dudley boundary.

SECOND SCHEDULE

LONDON—PENZANCE TRUNK ROAD

County of Cornwall.

- A.30. Bodmin—Fraddon Road, Toldish, Indian Queen :—From a point 50 yards north-east of the unclassified road to Ruthvoes to the north-eastern boundary of Fernleigh Villas.

LONDON—FISHGUARD TRUNK ROAD

County of Pembroke.

- A.40. Fishguard—Fishguard Harbour Road, Fishguard and Goodwick :—
 (a) from the western boundary wall of Windy Hall, Fishguard, in a westerly direction for a distance of 60 yards.
 (b) from a point 60 yards north-west of Goodwick Bridge to a point 25 yards north-west of the Great Western Railway Bridge at Goodwick Station.

BIRMINGHAM—BIRKENHEAD TRUNK ROAD

County of Stafford.

- A.4123. Birmingham—Wolverhampton Road, Coseley :—
 (a) from the Coseley Urban District and Dudley County Borough boundary northwards to a point 100 yards south of its junction with Mason Street, Roseville.
 (b) from its junction with Pickrell Road, Roseville, north-westwards to the Coseley Urban District and Wolverhampton County Borough boundary.

EXETER—LEEDS TRUNK ROAD

County of Derby.

- A.61. Clay Cross—Chesterfield Road, Old Tupton :—From its junction with Brassington Lane northwards for a distance of 183 yards.

THIRD SCHEDULE

LONDON—EDINBURGH—THURSO TRUNK ROAD

County of Nottingham.

- A.1. East Retford—Doncaster Road, Ranskill :—
 (a) from the sixth milestone north of Retford to the street lamp at Ranskill Cross-roads.
 (b) from a point six yards north of Telegraph Pole No. 139 to the entrance to St. Barnabas's Church.

BIRMINGHAM—GREAT YARMOUTH TRUNK ROAD

Soke of Peterborough.

- A.47. Uppingham—Peterborough Road, Castor and Ailsworth :—
 (a) from the milestone "Peterborough 4", Castor, north-westwards for a distance of 94 yards.

- (b) from a point one yard north-west of the Castor Hill General Post Office letter-box to a point three yards north-west of the western gate of the "Fitzwilliam Arms" Public House, Castor.
- (c) from Port Lane, Castor, north-westwards to the western boundary of the "Wheatsheaf" Public House, Ailsworth.

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[690]

CASES

Access to Highway—Carriageway Giving Access to Building Behind Buildings Fronting on Highway—Minimum Width—"Street"—Public Health Act, 1875 (c. 55), s. 4.

Plaintiff was the owner of a triangular piece of land situated behind certain houses which fronted immediately on a highway. The sole means of access from this triangular area to the highway was a strip of land about 100 feet long and of a width varying from 13 feet to 20 feet, also owned by the plaintiff. Plaintiff wished to erect upon the triangular area a building containing six flats, and to convert the strip of land leading to the highway into a carriageway for the use of the occupiers of the flats and their visitors. A planning scheme, in force with reference to the area in which this land was situate, defined "street" as having the same meaning as that which it has in the Public Health Act, 1875, and as including part of a street. The scheme prohibited the approval of a plan which was contrary to a bye-law or local Act, but gave the Council in proper cases a discretion to permit certain types of new street not likely to be used generally for through traffic. The minimum width of a street under the scheme was 20 feet:—

Held: the proposed carriageway would be a street within the meaning of the scheme, and, as it could not be made of the permitted minimum width, the local authority were right in refusing to pass the plans for it.—*COWAN v. HENDON BOROUGH COUNCIL*, [1939] 3 All E. R. 366; 103 J. P. 285; 55 T. L. R. 885; 83 Sol. Jo. 585; 37 L. G. R. 502; Digest Supp. [691]

Damage to Highway—Inadvertently Caused—Lorry Catching Fire—Highway Act, 1835 (c. 50), s. 72.

Appellant was driving a motor lorry laden with bales of cotton along the highway. Without any fault on the part of appellant, the cotton became ignited and the lorry was set on fire. Appellant promptly did all he could to put the fire out and telephoned for the fire brigade. The heat of the fire, however, damaged the highway, and the appellant was summoned under the Highway Act, 1835, s. 72, for causing damage to the highway, and was convicted and fined:—

Held: as appellant had not wilfully caused the damage, but, on the other hand, had done all he could to avert it, he was wrongly convicted, and the conviction ought to be quashed.—*TUNNICLIFFE v. PICKUP*, [1939] 3 All E. R. 297; Digest Supp. [692]

Making up—Provisional Apportionment of Cost—Providing New Gullies and Altering Existing Gullies—Whether Part of Drainage System or of Formation of Road—Whether Chargeable to Frontagers or to Rate-payers—Private Street Works Act, 1892 (c. 57), s. 5.

Appellants, as the urban authority under the Private Street Works

Act, 1892, passed a resolution in June, 1937, approving the plans and estimates for making up certain streets. The streets and the carriageways and levels thereof, with gullies and connections, were laid out by the estate developer after a plan thereof had been approved by appellants as complying with the provisions of the bye-laws then in force as to the widths of streets and carriageways. Such work was carried out in or about 1929, and the carriageways and levels thereof, with gullies and connections, had been so maintained in use ever since. Respondents, as the owners of premises adjoining or abutting upon portions of the streets, which premises were included in the provisional apportionments of the cost of the proposed work, objected to the provisional apportionments on the ground, *inter alia*, that the cost of providing new gullies or altering the position of existing gullies and altering levels in the streets should not be charged to the frontagers, but should be charged to the ratepayers of the district, as the gullies and connecting pipes were, and always had been, part of the drainage system, and formed no part of the carriageways of the streets :—

Held : as gullies were part of the drainage system, and not part of the formation of the road, the cost of the provision of new gullies and the alterations to existing gullies could not be charged upon the frontagers, but should be deleted from the provisional apportionments.—*EAST BARNET URBAN DISTRICT COUNCIL v. STACEY*, [1939] 2 K. B. 861 ; [1939] 2 All E. R. 621 ; 160 L. T. 561 ; 103 J. P. 237 ; 37 L. G. R. 364 ; Digest Supp.—D. C. [693]

HORSES, PONIES, MULES AND ASSES

See ANIMALS

HOSPITALS

See also ACTIONS BY AND AGAINST LOCAL AUTHORITIES ; FINANCE

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ORDERS, CIRCULARS AND MEMORANDA

DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1939, No. 927 as amended

* * * * *

32. Hospitals and ambulances.—(1) As respects any hospital, the Minister of Health and any person authorised by him to act under

this Regulation may give such directions with respect to the management and use of the hospital as that Minister thinks necessary for securing that proper hospital treatment will be readily available for persons in the United Kingdom who may be suffering from any injury, disease or incapacity in consequence of war operations, or who may leave their homes in consequence of, or in apprehension of, attacks by an enemy; and the Minister of Health may by order relax any obligation or limitation which by, or by virtue of, any Act or other instrument determining their functions, is imposed on the persons having the management of the hospital.

(2) With a view to ascertaining whether any directions given under this Regulation in relation to a hospital are complied with, any person authorised in that behalf by the Minister of Health may at any time enter and inspect any premises used for the purposes of the hospital.

(3) Any person concerned in, or employed in connection with, the management of a hospital shall, if requested by or on behalf of the Minister of Health so to do, furnish such information relating to the hospital as that Minister considers it necessary to obtain for the purposes of this Regulation.

(4) Paragraphs (1) to (3) of this Regulation shall apply in relation to any ambulance service, not being a service maintained for the purposes of any police force or fire brigade, as they apply in relation to a hospital.

(5) The Minister of Health, if it appears to him necessary so to do for securing that proper hospital treatment will be readily available for persons in the United Kingdom who may be suffering from any injury, disease or incapacity in consequence of war operations, or who may leave their homes in consequence of, or in apprehension of, attacks by an enemy, may manage any hospital or authorise a person to manage it in accordance with any instructions of the said Minister; and while, by virtue of this paragraph, the Minister of Health, or a person so authorised is managing any hospital—

(a) he shall be deemed to be acting as agent of the persons who would otherwise have the management of the hospital, except that those persons shall not have any right to control the management thereof; and

(b) those persons shall not be bound by any obligation or limitation imposed on them by or by virtue of any Act or other instrument determining their functions.

[(6) *Revoked.*]

(7) In this Regulation the expression "hospital" includes—

(a) any sanatorium, convalescent home, or public assistance institution;

(b) any institution within the meaning of the Mental Treatment Act, 1930, or institution, certified house or approved home within the meaning of the Mental Deficiency Act, 1913; and

(c) any clinic, dispensary, hospital centre or out-patients' department;

[remainder of paragraph revoked.]

(8) This Regulation shall, in its application to Scotland, have effect subject to the following modifications:—

(a) for references to the Minister of Health there shall be substituted references to the Secretary of State;

[(b) *Revoked*];

(c) for sub-paragraph (b) of the last preceding paragraph there shall be substituted the following sub-paragraph—

“(b) any institution, certified house or approved home within the meaning of the Mental Deficiency and Lunacy (Scotland) Act, 1913, or asylum”.

(9) This Regulation shall, in its application to Northern Ireland, have effect subject to the following modifications—

(a) for references to the Minister of Health there shall be substituted references to the Ministry of Home Affairs ;

(b) for sub-paragraph (b) of paragraph (7) there shall be substituted the following sub-paragraph—

“(b) any public mental hospital or registered institution within the meaning of the Mental Treatment Act (Northern Ireland), 1932”.

[694]

Paragraph (6), part of par. (7), and par. (8) (b) were revoked by S. R. & O., 1939, No. 1416, their substance being replaced by Regulation 31A, *supra*.

For definitions, see Regulation 100 (1), *post*.

Section 21 (1) of the Mental Treatment Act, 1930 (23 Statutes 172) provides :—

“The expression ‘institution’ means a mental hospital and other premises maintained by a local authority for the purposes of this Act, a registered hospital or licensed house [i.e., licensed for the reception of persons for treatment].

Section 71 (1) of the Mental Deficiency Act, 1913 (11 Statutes 195) provides, *inter alia* :—

“The expression ‘certified institution’ means an institution in respect of which a certificate has been granted under this Act to the managers to receive defectives therein, and includes, subject to the provisions of this Act, any premises provided by a board of guardians and approved under this Act :

“The expression ‘certified house’ means a house in which defectives are received by the owner thereof for his private profit, and in respect of which a certificate has been granted under this Act.

“The expression ‘approved home’ means any premises in which defectives are received and supported wholly or partly by voluntary contributions, or by applying the excess of payment of some patients for or towards the support of other patients, or a house in which defectives are received by the owner thereof for his private profit, and which has been approved by the Board under this Act”.

* * * * *

EMERGENCY HOSPITAL ORGANISATION

Circular 1775

February 3, 1939

SIR,—I am directed by the Minister of Health to state that he has been approached by the Central Emergency Committee for the Nursing Profession in regard to the local organisation which they consider it necessary to set up.

2. In their terms of reference the Committee were appointed to ascertain the nursing personnel available by collecting the numbers of nurses in the employment of hospitals and institutions and by compiling a register of all other nurses and assistant nurses and to compile a register of nursing auxiliaries.

3. It is clear that the Register must operate locally in emergency and as the Medical Officer of Health is normally in executive control of the arrangements for the recruiting and preliminary training of first-aid personnel and of the organisation of first-aid posts, and is also in close touch with the organisation of casualty hospitals at which nurses and nursing auxiliaries would be employed, it would be appropriate that he should be directly associated with the arrangements for establishing and utilising the Register. The Minister would, therefore,

be glad if the Council could arrange for the Medical Officer of Health to consider what is the most suitable local machinery for the purpose. In order to enlist the co-operation of the local interests concerned, it is desirable that a small committee (to be known as the Local Emergency Committee for the Nursing Profession) should be set up for the Council's area, including representatives of the hospitals and the medical profession, the local branch of the College of Nursing, the St. John Ambulance Brigade, the Red Cross Society and the Women's Voluntary Services. If, as would be most convenient, the Medical Officer of Health is able to undertake the executive work involved, this committee would act towards him in an advisory capacity. But where this is not practicable it can no doubt be arranged that the local branch of one of the voluntary agencies shall carry out the executive work on behalf of the Local Emergency Committee.

It is requested that the Medical Officer of Health will convey his views on the local organisation, including his suggestions for the constitution of the Local Emergency Committee, to the Secretary, Central Emergency Committee for the Nursing Profession, Romney House, Marsham Street, London, S.W. 1, as soon as possible.

4. The Central Emergency Committee will in due course supply a copy of the portions of the register relating to the area and will take steps to keep it up-to-date, and in this latter respect the local organisation would be particularly useful.

5. While the first task of the Central Emergency Committee is to establish a register of those who would form a nursing reserve in an emergency, it appears to the Minister that in order to make this reserve effective it should be organised into units, and receive collective training as such, under the general control of a central body, which would secure the necessary standardisation and co-ordination of training. He has decided to entrust this additional task to the Central Emergency Committee and to enlarge their terms of reference accordingly.

6. In preparing for national emergency the first organisations to supply the necessary auxiliaries for the reinforcement of the nursing profession must always be the St. John Ambulance Brigade and the British Red Cross Society and it is desired to make the fullest use of the facilities which these bodies offer for organisation and collective training. But the Minister is informed that there are other recruits who are willing and anxious to obtain the necessary instruction but, for one reason or another, are not prepared to join either of these well-established organisations. For them arrangements must be made and whilst their desire to serve the country in this way can be made known to the Central Committee, the sifting of candidates must be made locally, as must the actual arrangements for training. A scheme of training is being worked out by the Central Committee which will serve as a general guide, and the Committee will communicate with the Medical Officer of Health at a later date in regard to this.

7. An additional copy of this Circular is being sent to the Medical Officer of Health.

I am, Sir, etc.

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[695]

EMERGENCY HOSPITAL ORGANISATION

*Circular 1861**September 3, 1939*

PAY OF NURSES AND NURSING AUXILIARIES PROVIDED BY THE CIVIL NURSING RESERVE AND GIVING WHOLE-TIME SERVICE IN HOSPITAL

SIR,—I am directed by the Minister of Health to inform you that members of the Civil Nursing Reserve who have been called up for whole-time duty in hospital in connection with the treatment of casualties, should be paid by the Local Authority or Voluntary Hospital at the rates set out below, which are those announced by the Minister in the House of Commons on the 28th July, 1939, as applicable to the Civil Nursing Reserve generally for whole-time service in wartime :

trained nurses supplied by the Civil Nursing Reserve	£90 per annum plus board, lodging and laundry ;
assistant nurses supplied by the Reserve	£55 per annum plus board, lodging and laundry.

An additional sum of 3s. 6d. per week is payable to trained nurses and assistant nurses where free laundry is not provided :
nursing auxiliaries £2 per week (non-resident).

In the case of trained nurses in charge of wards an additional allowance of £20 per annum is regarded as appropriate.

Where an assistant nurse bears special responsibilities, she may be paid at the discretion of the Local Authority up to £65 per annum provided the proportion paid in excess of £55 per annum does not exceed one in four of the assistant nurses in the hospital who have been provided from the Civil Nursing Reserve.

The rates of pay set out above for trained nurses and assistant nurses are those recommended to the Minister by the Central Emergency Committee for the Nursing Profession, which includes representatives of the principal organisations concerned with nursing, including the General Nursing Council, the Royal College of Nursing, the Voluntary Hospitals and the Local Authorities.

Where a trained nurse or an assistant nurse is not provided with board and lodging either in the hospital or under arrangements made by the Local Authority or the Hospital, an additional sum of one guinea per week will be payable to her.

The standard rate of pay appropriate for nursing auxiliaries engaged in whole-time work in hospital in connection with the treatment of casualties is, as already indicated, £2 per week. This corresponds to the general flat rate laid down for women volunteers and it is a non-resident rate. Where board and lodging and laundry are provided by the hospital itself an appropriate reduction should be made, which it is suggested should not exceed 25s. per week.

In the case of nursing auxiliaries for whom board and lodging are provided under billeting arrangements made by the hospital with the Local Authority, the weekly sum paid to the householder for billeting, namely one guinea, should be deducted from the pay of the auxiliary, a record being kept of such deductions for the purpose of financial adjustments with the Ministry. The actual payment to the householder with whom the Auxiliary is billeted will be made by the Post

Office and not by the hospital or the Local Authority or by the Ministry directly.

It will of course be for the individual nurse or auxiliary to bear the cost of travelling to and from her hospital, but where an appreciable journey is involved when she first reports for duty, a request for refund of third class railway fare or its equivalent might reasonably be met by the employing authority or voluntary hospital and a claim forwarded to the Ministry accordingly.

The appropriate employers and employees contributions must be made for National Health, Unemployment and Pensions Insurance, and the Local Authority of Voluntary Hospital, as the case may be, is responsible for seeing that cards of members of the Reserve giving whole-time paid service are stamped in the usual way.

In a recent intimation to Local Authorities concerning the pay of A.R.P. Volunteers called up for whole-time service the Lord Privy Seal expressed the view that those serving will realise that the rates of pay are not fixed on the basis of an industrial working day of so many hours, but that they will be expected to be on or available for duty as required. The Minister has no doubt that members of the Civil Nursing Reserve who are giving whole-time service in hospitals will realise that in their case similar considerations must also apply with at least equal force.

Expenditure necessarily incurred on the basis indicated above in connection with the treatment of casualties in hospital will be recognised by the Minister for the purposes of the final settlement with the Voluntary Hospitals and the Local Authorities.

A copy of this Circular is being forwarded to the Medical Officer of Health of the County or County Borough.

I am, Sir, etc.

[696]

EMERGENCY HOSPITAL ORGANISATION

Circular 1868

September 7, 1939

SIR,—I am directed by the Minister of Health to refer to Circular 1861 dated 3rd September, 1939, concerning the pay of nurses and nursing auxiliaries provided by the Civil Nursing Reserve and giving whole-time service in hospital, and to remind local authorities and voluntary hospitals that the flat rate of 40s. (non-resident) per week, which was announced by the Lord Privy Seal in the House of Commons on the 16th February, 1939, as being, subject to any later decisions of the Government of the day, the rate of pay for whole-time service in war of women volunteers in A.R.P. Services and in the Auxiliary Fire Service, and was subsequently extended to whole-time nursing auxiliaries provided by the Civil Nursing Reserve, is limited to the classes of personnel specified. It does not extend to ancillary personnel employed in hospitals in connection with the treatment of casualties, e.g., cooks, kitchen staff, ward maids, laundresses. The rates of wages of such personnel, who should be recruited so far as possible through the medium of the Employment Exchanges, would be those which prevail in the district for the occupations in question.

Necessary additional expenditure incurred in the employment of such personnel by reason of the association of the hospital with the scheme for the treatment of casualties in hospital will be recognised by the Minister for the purposes of the final settlement with the Local Authorities and the Voluntary Hospitals.

I am, Sir, etc.

[697]

EMERGENCY HOSPITALS SCHEME

Circular 1874

September 20, 1939

PAYMENT IN RESPECT OF CASUALTIES

SIR,—I am directed by the Minister of Health to say that, as you are aware, the Government have accepted the principle that the reasonable and necessary cost of treating and maintaining casualties in hospital, and generally any additional expenditure in which Hospital Authorities are involved by reason of their participation in the Emergency Hospitals Scheme (apart from works of adaptation and protection and other matters for which separate provision is made in Part VII of the Civil Defence Act, 1939) will be met by the Exchequer. The Minister is discussing with the representative Associations of the Local Authorities concerned the basis upon which payments will be made in respect of the additional expenditure at hospitals or institutions belonging to Local Authorities or combinations of Local Authorities, and it is hoped that it will be possible to announce the arrangements at an early date.

Meanwhile it is desirable to bring certain general principles which have been determined, to the notice of Local Authorities, Joint Committees, and Joint Boards.

RESPONSIBILITY OF EXISTING HOSPITAL AUTHORITIES

All Local Authorities concerned in the Emergency Hospitals Scheme are aware that every existing Hospital Authority, whether a Local Authority, a Visiting Committee, a Mental Deficiency Committee, a Joint Board, or the governing body of a voluntary hospital, is expected to continue to be responsible for the administration and management of their hospital or institution, subject to any directions given under Reg. 32 of the Defence Regulations by the Minister or his Hospital Officers, notwithstanding that the function of the hospital or institution may be partly or entirely changed, and/or its size very much increased. This applies equally to any huts or tents erected on land belonging to a hospital or institution. The management and administration of the huts or tents will be a matter for the Authority, and the accounts kept by the Authority must be submitted to the Department. It may be necessary for the Hospital Authority to appoint additional staff in order to undertake the increased administrative work, and where the hospital or institution being expanded is affiliated to inner hospitals which are being reduced, it may be possible for the inner hospitals concerned to transfer staff to the outer for the purpose; but in these circumstances the transferred staff would be in the service of the Authority to whose hospital or institution they are transferred, and the

responsibility for administration would be with the receiving and not with the transferring Authority.

PAYMENT OF TRANSFERRED STAFF

It follows that it will be the responsibility of hospitals and institutions to which staff are transferred to pay that staff. Transferred staff are to be paid at the rate which they were being paid at their original hospital, any customary deduction for superannuation, etc., being made as usual. Pay books to be used for this purpose have been issued to the voluntary hospitals in the London area, and in a circular from the British Hospitals Association to hospitals in the area (copy of which is attached to this circular) the method of paying transferred staffs has been explained. Additional staff appointed to a hospital or institution otherwise than by way of transfer from some other hospital or institution (apart from nurses and nursing auxiliaries supplied by the Civil Nursing Reserve whose rates of pay are set out in Circular 1861) should be paid at the current rates appropriate to the corresponding class of employees already in the Hospital Authority's service.

APPOINTMENT AND PAYMENT OF NEW GRADES OF STAFF

Where the use to which an institution is to be put under the Emergency Hospitals Scheme necessitates the employment of grades of staff not ordinarily employed, the appropriate rates of pay, and the number of staff which may be engaged at any particular hospital are, in the first instance, matters for the responsible Hospital Authority. The scale on which casualty hospitals are to be staffed should not, however, exceed that adopted in general hospitals in normal times, and the Hospital Authority should take as a guide the costs normally incurred at other general hospitals belonging to them. If, as in the case of a Visiting Committee, Mental Deficiency Committee or Joint Board, the Authority have no experience of general hospital administration, they should seek advice from the responsible officers of the County Council or County Borough Council with which they are most closely associated; or in the case of hospitals included in the London sector scheme, advice may be obtained from the Lay Municipal Officer attached to the sector headquarters. The allocation to Hospitals, as distinct from the appointments, of additional medical and nursing staff is being carried out by the Group Officers and Sector Matrons where hospitals are included in a sector or affiliation scheme; but elsewhere hospitals should consult with the Hospital Officer before attempting to secure the allocation of additional medical and nursing staff to their casualty units.

TRANSFERRED PATIENTS, EVACUATED CHILDREN AND SERVICE PATIENTS

The Government are prepared to pay receiving hospitals for the cost of treating normal sick transferred from one hospital to another under arrangements made by the Minister's Hospital Officers, and children who have been evacuated unaccompanied by an adult, on the same basis as for casualties. This will be subject to some adjustment with the Local Authorities or combinations of Authorities normally responsible for the care and maintenance of these patients. The treatment of Service Casualties, and of A.R.P. personnel who are injured while on duty, should be undertaken as necessary, the cost will be taken into account in fixing the Exchequer payments.

MEDICAL OFFICERS ENROLLED IN THE EMERGENCY MEDICAL SERVICE

Medical Officers who have been enrolled by the Ministry in the Emergency Medical Service will be paid direct by the Regional staff of the Ministry, and no payment has to be made by the hospitals to which they are attached. An allowance of £100 per annum is made to these Officers where they are not provided with board and lodging. If they are resident in the hospital the allowance is not paid, but the cost of providing them with board and lodging will be regarded as part of the costs of treating casualties. Where Medical Officers are billeted on private houses by the Local Authority's billeting Officer, the Government will pay £1 1s. a week for their billeting and the difference between this £1 1s. a week and the £100 per annum full allowance, for meals which cannot be taken in billets and for transport between the billet and the hospital will be payable to the Medical Officers. As an alternative to payment to the Medical Officers, such meals and transport may be provided by the hospital, and the cost treated as part of the cost of treating casualties.

BILLETING OF OTHER STAFF

Circulars (Nos. 1855 and 1855A) have already been sent to Billeting Authorities about the billeting of nurses and other hospital staff. An amending circular is shortly being sent to these Authorities with the object of securing that this staff should normally be billeted on a lodging basis only, so that arrangements can be made for meals to be taken either in the billets or in the hospital as is most convenient in the local circumstances, the cost being met in accordance with the terms of engagement of the individual concerned.

PAYMENT ON ACCOUNT

If any Local Authority or combination of Authorities, whose normal hospital expenditure has been substantially increased as a result of the Emergency Scheme, finds itself in difficulty in financing the scheme the Department will make payments on account pending the settlement of the general basis and on receiving from the Authority or combinations of Authorities a statement of their weekly outgoings under the Scheme as compared with their weekly outgoings in normal times.

A separate circular will shortly be sent to Mental Hospital Visiting Committees, and Mental Deficiency Committees dealing with the application to their hospitals and institutions, of the general principles stated above.

An additional copy of this circular is enclosed for the information of the Medical Officer of Health.

I am, Sir, etc.

[698]

PAYMENT OF TRANSFERRED STAFF

September 14, 1939

1. Pay Books have been supplied by the Ministry of Health for the use of Voluntary Hospitals whose staff have been transferred to other hospitals. A complete Pay Book consists of Cover, Record Sheet,

Record of Leave, and Record of Service; and, in the case of Probationer Nurses, a card for record of Training.

2. The Pay Book is largely self-explanatory, and voluntary hospitals should have no difficulty in filling in the necessary particulars. Two copies of the Record Sheet are provided, so that particulars may be completed in duplicate; one copy, together with a copy of Records of Leave and Service, should be secured in the Pay Book (with gum or staples), and the other copy of the Record Sheet should be retained by the parent hospital. A pocket is provided for National Health insurance cards, etc., and also, in the case of Probationer Nurses and other students, for the special card on which details of training given will be recorded.

3. Payment of transferred staff will be made by the hospitals to which they are attached for the time being. The pay and emoluments will be at the rate shown on the Pay Book. The responsible authorities at the receiving hospitals are requested to inform the parent hospital immediately any increment takes effect or if any transferred employee abandons hospital service: in which case the Pay Book should be returned to the parent hospital for cancellation.

4. When completed by the parent hospital the books should be sent to the Secretary or Steward of the hospital to which the staff have been transferred who will retain them during the time the person named on the book is in the employ of that particular hospital. On a further transfer taking place, the Records of Leave and Service will be completed, and, in addition, if any change in rate of payment has been made (e.g., increment) the necessary entry should be made on the Record Sheet under Summary of Payments. The book will then be given to the employee to take to the new place of employment.

5. A few notes with regard to Pension contributions may be useful. The arrangement is that the full 15 per cent. contributions in respect of each employee under the scheme shall continue to be paid by the parent hospital direct to the insurance companies. The usual 5 per cent. deduction will be made by the hospital which pays the salary; but it is not intended at the present time that steps should be taken by voluntary hospitals to recover this 5 per cent., together with the employers' 10 per cent. from the hospital to which the staff have been transferred. This charge will therefore fall upon the parent hospital and a record should be kept of the amount paid, with a view to inclusion in the claim for reimbursement by the Government as part of the cost of the provision of the casualty service.

This course of action in connection with superannuation has been adopted as most of the transferred staff are going to Municipal Hospitals, the officials of which are not familiar with the Federated Superannuation Scheme for Nurses and Hospital Officers.

6. Any queries in respect of the use of the Pay Book should be addressed to the Lay Sector Officer. [699]

NURSING PERSONNEL AND UNEMPLOYMENT INSURANCE

Circular 1881

September 28, 1939

SIR,—With reference to the fourth paragraph on page 2 of Circular 1861 regarding the pay of members of the Civil Nursing Reserve giving

whole time service in hospitals, and paragraph 12 of Circular 1869 dealing with the personnel of first-aid posts, I am directed by the Minister of Health to state that Unemployment Books should *not* be stamped for Trained or Assistant Nurses.

Books should, however, be stamped in respect of all whole-time Nursing Auxiliaries, and also of female personnel trained in first-aid and serving whole-time at first-aid posts.

I am, Sir, etc.

[700]

HOUSING

STATUTES :—	PAGE	CASES :—	PAGE
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Civil Defence Act, 1939, s. 34 [see p. 46, ante]			
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Housing Act (Form of Orders and Notices) Amendment Regulations, 1939 — —	397	<i>Re</i> Ripon (Highfield) Housing Order, 1938, White and Collins' Application, [1939] 3 All E.R. 548, C. A. — — — —	404
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STATUTES

THE HOUSING (EMERGENCY POWERS) ACT, 1939

(2 & 3 GEO. 6, c. 78)

PRELIMINARY NOTE

The Housing (Emergency Powers) Act, 1939, came into force on 1st September, 1939.

The Act extends the powers and duties of local authorities contained in the Housing Act, 1936 (29 Statutes 565), by giving power to such authorities to repair war-damaged buildings. The added duties of the local authorities are to have effect as if they were included in Part II (sections 2 to 24) of the Act of 1936, which deals with the repair, maintenance and sanitary condition of houses below certain limits of rent. The local authorities are therefore the same as for that part of the Act, *i.e.*, borough, urban and rural district councils, and in London the metropolitan borough councils.

Provisional Regulations (the Housing (Repair of War Damage) Regulations, 1939) were issued on 4th September, 1939, giving a Form of Notice of an intention to carry out works to repair war-damaged buildings.

For a similar Act regarding other classes of property, see the Essential Buildings and Plant (Repair of War Damage) Act, 1939 (c. 74).

Ministry of Health Circular No. 1866, dated 8th September, 1939, sets out the course which the Minister proposes to follow and his advice to housing

authorities. Briefly, he proposes to defer holding further Inquiries, and to postpone his decision on Inquiries already held ; where Orders have been made he advises authorities not to proceed with demolition ; as regards houses in progress contractors should concentrate on those in an advanced state.

An Act to empower local authorities to make fit for housing purposes buildings damaged by war, and for purposes connected therewith. [701]

[1st September 1939.]

1. Power for local authorities to repair war damaged buildings.—Where a local authority are satisfied—

- (a) that any building, whether a house or not, is in any respect unfit for housing purposes by reason of war damage ; and
 - (b) that the building is capable at reasonable expense of being rendered fit for housing purposes ; and
 - (c) that lack of housing accommodation in the area of the authority makes it necessary that the building should be rendered so fit ; and
 - (d) that the person having control of the building is unable or unwilling to carry out the works necessary to render it so fit ;
- the following provisions shall have effect—

- (i) the local authority, with the consent of the Minister of Health, may serve upon the person having control of the building a notice stating that at the expiration of such period not being less than fourteen days, as may be specified in the notice, they intend to execute such works as may be so specified and stating that in the opinion of the authority those works are necessary to render the building fit for housing purposes ;
- (ii) at the expiration of the period specified in the notice, the local authority, after considering any representations made by the person in control of the building, may enter upon the building and execute the works specified in the notice, or such other works, being works which in the opinion of the authority will render the building fit as aforesaid, as may be agreed between the authority and the person having control of the building :

Provided that where the local authority are also satisfied that temporary repairs to the building are immediately necessary to avoid danger to health, they may at any time, without serving such a notice as aforesaid and without the consent of the Minister of Health, enter upon the building and execute such repairs, but without prejudice to their powers under paragraphs (i) and (ii) of this section. [702]

"Local authorities" are borough, urban and rural district councils, and for London the common council of the City of London and the Metropolitan borough councils (Housing Act, 1936, sections 1, 24 ; 29 Statutes 565, 584).

"Building" is not defined, but by inference is here used to mean a building fit for housing purposes.

As to war damage, see section 6, *post*.

On the question whether a house can be rendered fit for human habitation at a reasonable expense, regard must be had to the estimated cost of the works necessary and the estimated finished value of the house (Housing Act, 1936, section 9 (3), 29 Statutes 572, see section 2 (1), *post*).

By section 9 (4) of the Act of 1936 (29 Statutes 572) "person having control" means the person who receives the rackrent of a house or building (see section 2 (2) of the present Act) whether on his own account or as agent or trustee for any other person, or who would so receive it if the house were let at a rackrent ; and "rackrent" means rent which is not less than

two-thirds of the full net annual value of the house. The local authority may also serve a copy of the notice on any other person having an interest in the house or building (Act of 1936, section 9 (2); 29 Statutes 572). If an owner of a house or building (see section 2 (2), *post*) who is not the person in receipt of the rents and profits of the building, gives notice to the local authority of his interest in the house or building, the authority must give him notice of any proceedings taken by them in relation to the house or building (Act of 1936, section 19 (1); 29 Statutes 581).

See the Housing (Repair of War Damage) Regulations, 1939, dated 4th September which are provisional regulations made under section 176 of the Housing Act, 1936 (29 Statutes 676); they were certified to come into immediate operation on account of urgency.

Section 10 (3) of the Housing Act, 1936 (29 Statutes 573) provides that any expenses, together with interest, may be recovered by action or summarily as a civil debt from the "person having control" or if he receives the rent as agent or trustee for another, then either from him or that other person or partly from each. The time within which proceedings may be taken is to be reckoned from the date of the service of the demand (*ibid.* section 10 (4)), which by the proviso to section 2 (3), *post*, must not be made until the end of the period of emergency (as to which see definition in section 6). By section 10 (5) of the Act of 1936 the local authority may by Order declare the expenses to be payable weekly up to a period of thirty years, and these may be recovered summarily as a civil debt from the owner or from the occupier who may deduct them from the rent. The amount of the expenses and the interest is to be a charge on the premises, which may be enforced by the local authorities (*ibid.* section 10 (6)). As to recovery as a civil debt, see Halsbury's Laws of England, 2nd Edn., Vol. 21, pp. 632, 647-651.

2. Application of the Housing Act, 1936.—(1) The Housing Act, 1936, shall have effect as if the foregoing section were included in Part II of that Act, subject however to the modifications and exceptions hereafter specified in this section.

(2) Subsection (4) of section nine of the said Act (which defines the person having control of a house) and section nineteen of that Act (which provides for protection of owners of houses) shall have effect as if references to a house included references to a building.

(3) Subsections (3), (4), (5) and (6) of section ten of the said Act (which relate to the recovery of expenses incurred by an authority under that section) shall have effect as if references to that section included references to section one of this Act and as if references to a house included references to a building:

Provided that no demand for expenses incurred by a local authority under this Act shall be made under subsection (3) of the said section ten until the end of the period of the present emergency.

(4) For the purpose of section fifteen of the Housing Act, 1936 (which relates to appeals), a notice under section one of this Act shall not be deemed to be a notice requiring the execution of works. [703]

For the Housing Act, 1936, Part II, see 29 Statutes 566-584. Part II (sections 2 to 24) relates to repair, maintenance and sanitary condition of houses.

For the Housing Act, 1936 sections 9, 10, 19 see 26 Statutes 572-4, 581.

The Housing Act, 1936, section 15 (29 Statutes 577) gives a right of appeal against a notice requiring the execution of works, which right is hereby excluded.

3. Loans for purposes of Act.—(1) The Minister of Health may lend money for the purposes of section one of this Act to any local authority on such terms as he, with the approval of the Treasury, may fix, and, notwithstanding anything in any enactment, a local authority may borrow on the terms so fixed for these purposes.

(2) Any sums required by the Minister of Health for the purpose of a loan under this section shall be paid out of moneys provided by Parliament, and any sums received by him by way of repayment of a loan under this section or by way of interest thereon, shall be paid into the Exchequer. [704]

Under section 118 of the Housing Act, 1936 (29 Statutes 650), local authorities are given power to borrow for the purposes of Part II of that Act so far as it relates to execution of repairs and works by local authorities (see Halsbury's Laws of England, 2nd Edn., Vol. 26, p. 588).

4. Application to Scotland. [705]

5. Provision as to Northern Ireland. [706]

6. **Short title, interpretation and extent.**—(1) This Act may be cited as the Housing (Emergency Powers) Act, 1939.

(2) In this Act—

(a) the expression “war damage” means damage caused by enemy action or in repelling enemy action or by measures taken to mitigate the consequences of damage caused by enemy action or in repelling enemy action;

(b) the expression “period of the present emergency” means the period beginning with the date of the passing of this Act and ending with such day as His Majesty may by Order in Council declare to be the day on which the emergency that was the occasion of the passing of this Act came to an end.

(3) No provision of this Act, except the provisions of the last foregoing section, shall extend to Northern Ireland. [707]

ORDERS, CIRCULARS AND MEMORANDA

HOUSING ACT (FORM OF ORDERS AND NOTICES) AMENDMENT REGULATIONS, 1939

S. R. & O., 1939, No. 30

(99565)

January 16, 1939

The Minister of Health, in pursuance of the powers conferred on him by section 176 (1) of the Housing Act, 1936, and of all other powers enabling him in that behalf, hereby makes the following regulations:—

1. These regulations may be cited as the Housing Act (Form of Orders and Notices) Amendment Regulations, 1939, and shall be read as one with the Housing Act (Form of Orders and Notices) Regulations, 1937 (hereinafter referred to as “the principal regulations”).

2. For Form No. 4 in the schedule to the principal regulations there shall be substituted the following form:—

FORM NO. 4

NOTICE OF TIME AND PLACE AT WHICH MATTERS RELATING TO THE MAKING
OF A DEMOLITION ORDER IN RESPECT OF A HOUSE WILL BE CONSIDERED.

Housing Act, 1936

To¹

the person having control of the house²

and to¹

the owners

of the said house and to¹

mortgagees of the said house;

Whereas the³

(hereinafter

referred to as “the Council”) are satisfied that the above-mentioned house, which is occupied or is of a type suitable for occupation by persons of the working classes, is unfit for human habitation and is not capable at a reasonable expense of being rendered so fit.

Take Notice that the condition of the above-mentioned house, and any offer, of which notice is duly given, with respect to the carrying out of works

thereto, and any offer with respect to the future user of the house will be considered by the Council at _____ on the* _____ day of _____ 19____, at _____ in the _____ noon, when any of the persons to whom this notice is addressed will be entitled to be heard.

If you intend to submit an offer with respect to the carrying out of works, you are required, under the provisions of section 11 (2) of the Housing Act, 1936, to serve notice in writing upon the Council, within twenty-one days from the date of the service of this notice, stating your intention to make such an offer.

After giving such notice of intention you will be required to submit a list of the works which you offer to carry out before the date fixed above for the consideration of such an offer [or within such reasonable period thereafter as the Council may allow].

If you fail either (a) to notify the Council within the period of twenty-one days referred to above, of your intention to make an offer to carry out works to render the house fit for human habitation, or (b) to make an offer as to the future user of the house, before or at the meeting on _____,

the Council are bound by the Housing Act, 1936, to make a Demolition Order requiring the house to be vacated and subsequently demolished at your expense. Once the Order becomes operative there is no power to rescind or vary it.

Dated this _____ day of _____, 19____

Signature of the Clerk of the Local Authority.

Directions for filling up this form.

¹Name and address, where known.

²Such a description of the house as may be sufficient for identification.

³Description of the Local Authority.

*At least 21 days' notice must be given, but the time should in any case be sufficient to allow a reasonable period for the submission of a list of works after notice has been duly served on the Council.

* * * * *

[708]

HOUSING ACT (FORM OF CHARGING ORDER) REGULATIONS, 1939

S. R. & O., 1939, No. 563

(100545)

May 16, 1939

The Minister of Health, in pursuance of the powers conferred on him by subsection (1) of section 21 and subsection (1) of section 176 of the Housing Act, 1936, and of all other powers enabling him in that behalf, hereby makes the following regulations:—

1. These regulations may be cited as the Housing Act (Form of Charging Order) Regulations, 1939, and shall come into operation forthwith.

2. The form set out in the Schedule hereto or a form substantially to the like effect shall be the form to be used in connection with the powers and duties of a local authority under section 20 of the Housing Act, 1936, to grant a charging order to an owner on completion of works.

3. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

SCHEDULE

CHARGING ORDER

Housing Act, 1936

In pursuance of their powers under Section 20 of the Housing Act, 1936, the* do by this order charge the premise mentioned in the schedule hereto with the payment to..... of.....of the sum of £.....yearly on the..... day of.....for the term of.....years in consideration of an expenditure of £.....incurred by him in respect of the said premises.

Schedule.

Given under the seal of the
day of

this
nineteen hundred and thirty-nine.

Signature of the Clerk of the
Local Authority.

* Description of Local Authority.

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[709]

HOUSING (REPAIR OF WAR DAMAGE) REGULATIONS, 1939

P. R. & O., 1939

(101533)

September 4, 1939

The Minister of Health hereby certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency the following regulations should come into force immediately, and in exercise of the powers conferred on him by subsection (1) of section 176 of the Housing Act, 1936, and of all other powers enabling him in that behalf, hereby makes the following regulations to come into operation immediately as provisional regulations :—

1. These regulations may be cited as the Housing (Repair of War Damage) Regulations, 1939, and shall come into operation on the date hereof.

2. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3. The form set out in the Schedule hereto or a form substantially to the like effect shall be the form to be used in connection with the powers and duties of a local authority under section 1 of the Housing (Emergency Powers) Act, 1939, to carry out works to repair war damaged buildings.

SCHEDULE

FORM OF NOTICE OF INTENTION TO CARRY OUT WORKS TO REPAIR WAR DAMAGED BUILDINGS.

Housing (Emergency Powers) Act, 1939.

To
the person having control of the building.....

Whereas the.....Council of.....
(hereinafter referred to as "the Council") are satisfied—

- (i) that the above-mentioned building is, in certain respects unfit for housing purposes by reason of war damage ; and
- (ii) that it is capable at reasonable cost of being rendered fit for such purposes.

Take notice that in pursuance of Section 1 of the Housing (Emergency Powers) Act, 1939, the Council intend, at the expiration of 14 (fourteen) days from the date of this Notice, to execute the works set out in the Schedule hereto, which works are in the opinion of the Council necessary to render the building fit for housing purposes.

The Council will consider any representations you may wish to make, such representations to be made before the expiration of the 14 days aforesaid.

The cost of the works when carried out will be registered as a charge on the building, but no demand for payment will be made on you during the period of the present emergency.

SCHEDULE.

Dated this.....day of....., 19.....

.....
Signature of the Clerk of the
Local Authority.

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[710]

HOUSING

Circular 1809

April 22, 1939

SIR,—I am directed by the Minister of Health to say that he thinks it will be of interest to your authority to know that the total number of houses built in England and Wales since the Armistice is expected to pass the figure of 4,000,000 in the course of the week commencing the 8th May. This is a very considerable achievement on the part of local authorities, private enterprise and the building industry, on which all concerned are to be congratulated. But it does not mark the end of the task. There is still much to do in the clearing of the slums, in the abolition of overcrowding and in the provision of new houses to meet the general needs of the agricultural population. Properly regarded, therefore, the week commencing the 8th May marks not only the completion of 4,000,000 houses but the beginning of the fifth million. The Minister is proposing to give publicity to the beginning of this further advance towards the better housing of the people and it occurs to him that if your authority is likely to be arranging any special functions connected with housing in the near future they may wish, if practicable, to arrange to have them in the week commencing 8th May and thus link up with what is being done to draw attention to the present position viewed from a national standpoint.

It is hoped to have available in the course of the week commencing 8th May a little booklet explaining in simple terms the general objectives in housing and how they can be achieved. The powers and duties of local authorities are explained in broad general outline without entering in detail into complicated matters of administration. The Minister

will be happy to arrange for free copies of this booklet to be supplied to you so that a copy may be available for each member of the Council and for its principal officers. I am to request that you will be good enough to indicate on the enclosed form the number of copies required for free distribution. The booklet will also be placed on sale to the general public.

An illustrated book containing photographs of pleasing styles of houses and groups of houses and giving general guidance about siting, layout and planning is also being prepared and will be placed on sale under the title "Houses we live in". A copy of this book will be presented to the Chairman and Clerk to the Authority in due course. No special application need be made.

I am, Sir, etc.

[711]

HOUSING

Circular 1908

November 7, 1939

KEEPING OF PIGS AND POULTRY ON LOCAL AUTHORITIES' HOUSING ESTATES

SIR,—I am directed by the Minister of Health to inform you that in connection with the steps at present being taken by the Government to increase the food supplies of the country and in particular to encourage the keeping of poultry and pigs by householders, his attention has been drawn by the Minister of Agriculture and Fisheries to the importance at the present time of relaxing so far as may be practicable such restrictions as may exist to prevent the keeping of poultry and pigs by the tenants of local authorities' houses.

The Minister appreciates that the keeping of poultry and pigs by tenants of local authorities' houses is but one aspect of the general responsibility for the management of their housing estates which is by statute vested in local authorities, and that the decision whether permission should be given is one entirely for them.

The Minister is of opinion that even in normal times it is desirable that the tenants of Council Houses should be allowed such reasonable freedom to follow these pursuits as is consistent with the preservation of amenities and he feels sure that the particular importance of these forms of food production with the aid of household, garden and allotment refuse at the present time will be evident to all authorities. He takes this opportunity of urging upon those authorities, which have hitherto thought it necessary to prohibit the keeping of poultry and pigs on their estates, to reconsider the matter with a view to determining how far the prohibition can reasonably be relaxed.

It is clearly necessary for the good of the community as a whole that proper safeguards, especially in urban areas, against the possibility of a nuisance being created by poultry keeping should be imposed. These should include the use only of types of hen-cote approved by the local authority; control over the siting; restriction, according to the space available, of the number of birds kept by individual tenants; and a ban on the keeping of male birds of such an age as to be capable of creating a nuisance to neighbours by crowing. But

with safeguards of this kind, reasonably applied, there are few places where poultry keeping might not be permitted without detriment to health or amenities.

The question of poultry keeping on municipal housing estates has recently been under consideration by the House Management Sub-Committee of the Central Housing Advisory Committee and although owing to the emergency it has not yet been possible for the conclusions of the Sub-Committee to be submitted to the Central Committee the Minister understands that the views expressed in this Circular are in general accord with the opinion of the Sub-Committee.

As regards pig keeping, any local bye-laws are now almost invariably on the lines of clauses 11-13 of the model bye-laws. These ensure that pigs are not kept within a specified distance of a dwelling unless the place in which they are kept is in a clean and wholesome condition and lay down certain requirements as to the method of obviating nuisance or danger to health. These are not onerous restrictions, but the Minister has reason to believe that a number of local authorities have thought it desirable to impose on the tenants of their housing estates conditions more restrictive than the provisions of the model bye-laws. He is sure that in present circumstances these local authorities will be ready to consider the modification or removal of such conditions.

An additional copy of this Circular is enclosed for the information of the Medical Officer of Health.

I am, Sir, etc.

[712]

THE HOUSING (EMERGENCY POWERS) ACT, 1939

TERMS FIXED BY THE MINISTER OF HEALTH WITH THE APPROVAL OF THE TREASURY FOR LOANS TO LOCAL AUTHORITIES

(1) The rate of interest on any loans shall be the rate fixed by the Minister with the approval of the Treasury for the purpose of the Act at the date when repayment of the loan is demanded.

(2) No sum by way of interest or repayment of capital shall be required from the local authority during the period of an emergency.

(3) After the end of the emergency repayment of the loan shall be made by equal half-yearly instalments to include capital repayment and interest during a period not exceeding 30 years as may be fixed by the Minister.

(4) The form of mortgage to secure the loan shall be that prescribed in Section 205 of the Local Government Act, 1933, or in a form substantially to the like effect.

(5) The amount to be lent shall be such as may be ascertained to the satisfaction of the Minister to be necessary to enable the Authority to carry out works in accordance with Section 1 of the Act.

(6) The Minister shall be entitled to call for the production of such certificates or other information as may be necessary to satisfy him that the works have been satisfactorily executed.

(7) The local authority shall keep such accounts, registers, certificates, and other relevant documents as may be necessary to support the expenditure in respect of the repaired houses and allow them to be inspected by District Auditor or other authorised officer of the Ministry.

[713]

CASES

Clearance Area—Compulsory Purchase—"House"—Premises Consisting of Shops with Living Rooms Over—Housing Act, 1936 (c. 51), s. 25.

Certain properties consisting of shops on the ground floor and of living rooms on the upper floor, which had been found unfit for human habitation, were made the subject of a compulsory purchase order. At the time of the making of the order, the rooms had ceased to be used as living rooms, and the owner was prepared to enter into an undertaking that they should not in future be used as such. The owner contended that these houses were not houses within the meaning of that word as used in the Housing Act, 1936, s. 25 :—

Held : the premises were houses within the meaning of that word as used in the Housing Act, 1936, s. 25, and the order was rightly made.—*RE SOUTH SHIELDS (D'ARCY STREET) COMPULSORY PURCHASE ORDER, 1937, BAINBRIDGE'S APPLICATION*, [1939] 1 K. B. 500; [1939] 1 All E. R. 419; 103 J. P. 107; 55 T. L. R. 409; 83 Sol. Jo. 259; *sub nom. BAINBRIDGE v. MINISTER OF HEALTH*, 160 L. T. 392; 37 L. G. R. 275; Digest Supp. [714]

Clearance Order—Buildings Consisting of Dwelling-houses on First Floor and Garages and Stores on Ground Floor—Separate Occupations—Whether Garages and Stores should be Included in Clearance Order—"Houses"—Housing Act, 1936 (c. 51), s. 25, Schedule III, par. 2.

The property in question consisted of a number of buildings built on three sides of a narrow *cul-de-sac*. These buildings were a continuous series of buildings on two floors, separated by divisions. The upper floors were used as dwelling-places, and access to them was obtained by staircases and doors opening on to the open space, and not connected in any way with the ground floor. The ground floor was used throughout for either garages or stores, all in separate occupation. The local authority made a clearance order in respect of both the dwellings on the first floor and the garages and stores beneath. It was contended that there was no power to make an order in respect of the garages and stores. The resolution of the local authority and the order as confirmed by the Minister stated, *inter alia*, "that the other buildings (if any) in the said area are for a like reason dangerous or injurious" :—

Held : the buildings in the area fell within the definition of "houses" in the Housing Act, 1936, s. 25, and the garages and stores were, therefore, rightly included in the order;

(ii) the fact that there were no other buildings, other than houses, in the area did not affect the validity of the resolution and order.—*RE CAMBERWELL (WINGFIELD MEWS) NO. 2 CLEARANCE ORDER, 1936, BUTLER'S APPLICATION*, [1939] 1 K. B. 570; [1939] 1 All E. R. 590; 108 L. J. K. B. 487; 160 L. T. 255; 103 J. P. 143; 55 T. L. R. 429; 83 Sol. Jo. 256; *sub nom. BUTLER v. MINISTER OF HEALTH*, 37 L. G. R. 315; Digest Supp.—C. A. [715]

Compulsory Purchase—"Park, garden or pleasure ground"—"Required for the amenity or convenience of any house"—Finality of Minister's Decision—Housing Act, 1936 (c. 51), s. 75.

A local authority, proceeding under the Housing Act, 1936, ss. 73, 74, made a compulsory purchase order for the purpose of acquiring land

as a site for the erection of houses for the working classes. The land acquired was alleged to be part of the grounds of a large house, and, therefore, not properly included in a compulsory purchase order as forming—in the words of s. 75—"part of any park, garden or pleasure ground, or otherwise required for the amenity or convenience of any house". A local inquiry was duly held, and the Minister confirmed the order, but excluded a considerable part of the land therefrom :—

Held: (i) for land to be protected from a compulsory purchase order under s. 75, it may either be land which is part of a park, garden or pleasure ground, or land which is otherwise required for the amenity or convenience of a house. Once it has been shown to be part of a park, it is unnecessary to show in addition that it is also required for the amenity or convenience of a house ;

(ii) the word "park" in this section bears, not its original legal meaning, but its wider popular meaning. Land does not cease to be parkland merely because it is let for grazing ;

(iii) there is no general rule that, when the Minister has made a decision under this section, that decision cannot be questioned in a court of law. The proceedings before the court are not in the nature of an appeal. They are new and independent proceedings. The court has jurisdiction to review a finding of fact on which the existence of its jurisdiction depends—in this case, the question of whether the land was part of a park ;

(iv) on the facts of the present case, the land in question was part of a park. A compulsory order for its purchase was, therefore, not within the powers given by the Act, and there was no jurisdiction to make or confirm such an order. The order of the Minister ought, therefore, to be quashed ;

(v) there is, however, nothing in the Act to prevent a local authority from compulsorily acquiring the whole of a property. It is a part only which cannot be compulsorily taken.

Decision of Charles, J. ([1939] 1 All E. R. 508) reversed.

Re Bowman, Re South Shields (Thames Street) Clearance Order, 1931, [1932] 2 K. B. 621 ; Digest Supp. distrained.

Bunbury v. Fuller (1853), 9 Exch. 111 ; 19 Digest 482, 3416 followed.—*RE RIPON (HIGHFIELD) HOUSING ORDER, 1938, WHITE AND COLLINS' APPLICATIONS, [1939] 2 K. B. 838 ; [1939] 3 All E. R. 548 ; 108 L. J. K. B. 769 ; 161 L. T. 109 ; 103 J. P. 331 ; 55 T. L. R. 956 ; 83 Sol. Jo. 622 ; Digest Supp.—C. A. [716]*

Support—Interference—Demolition of Adjoining House—Demolition in Obedience to Clearance Order—Liability of Person Demolishing.

Plaintiff was entitled to an easement of support in respect of his premises from defendant's premises, and it was agreed that, if defendant's premises were demolished, there was a serious danger of plaintiff's premises collapsing. Defendant was ordered, by a clearance order made by the local authority and confirmed by the Minister of Health, to demolish his premises, and he contended that, as he would be demolishing his premises in pursuance of the order, plaintiff would have no right of action against him in respect of the loss of support. If defendant failed to demolish his premises, he would not be subject to any penalty, the statute providing in such case that the local authority shall enter upon the premises and demolish them :—

Held: although defendant would be demolishing his premises in obedience to the clearance order, he would be bound to have the same

regard to the right of support as if he were voluntarily demolishing his premises.—*BOND v. NORMAN, BOND v. NOTTINGHAM CORPN.*, [1939] Ch. 847; [1939] 2 All E. R. 610; 108 L. J. Ch. 273; 160 L. T. 548; 103 J. P. 210; 55 T. L. R. 693; 83 Sol. Jo. 416; 37 L. G. R. 375; Digest Supp. [717]

Support—Interference—Demolition of Adjoining House by Corporation in Pursuance of Clearance Order—Liability of Corporation—Housing Act, 1936 (c. 51), ss. 13, 26.

Plaintiff was entitled to an easement of support in respect of his premises from the premises of one N., and it was agreed that, if the premises of N. were demolished, there would be a serious danger of plaintiff's premises collapsing. N. was ordered, by a clearance order made by the local authority and confirmed by the Minister of Health, to demolish his premises. N. having failed to demolish his premises as provided for in the order, defendant corp'n. in pursuance of their statutory duty under the Housing Act, 1936, intimated their intention to demolish N.'s premises without providing support for plaintiff's property. Thereupon plaintiff brought this action to restrain defendant corp'n. from demolishing N.'s premises without providing adequate support for his, plaintiff's, property:—

Held: although the Housing Act does not provide for compensation for any damage done to neighbouring premises by a local authority in exercise of its statutory duty of entry and demolition of a building, there was nothing in the Act which justified the local authority in depriving plaintiff of his easement of support.—*BOND v. NOTTINGHAM CORPN.*, [1939] 3 All E. R. 669; 108 L. J. Ch. 336; 161 L. T. 221; 103 J. P. 343; 55 T. L. R. 987; 83 Sol. Jo. 673; 37 L. G. R. 375; Digest Supp. [718]

INFANTS, CHILDREN AND YOUNG PERSONS

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STATUTES

THE ADOPTION OF CHILDREN (REGULATION) ACT, 1939

(2 & 3 Geo. 6, c. 27)

PRELIMINARY NOTE

THIS Act received the Royal Assent on 13th July, 1939, and s. 17 provided that it should come into operation on the 1st January, 1940. By the Postponement of Enactments (Miscellaneous Provisions) Act, 1939, the coming into operation of the Act, except s. 8, par. (d) in s. 15, the definition of "the principal Act" in par. (h) in s. 15

and in s. 16 (2), and the Schedule, is postponed until such date as His Majesty may by Order in Council appoint. No such Order has been made at the date of going to press. The Postponement, etc., Act received the Royal Assent on 14th December.

ARRANGEMENT OF SECTIONS

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An Act to regulate the making of arrangements by adoption societies and other persons in connection with the adoption of children; to provide for the supervision of adopted children by welfare authorities in certain cases; to restrict the making and receipt of payments in connection with the adoption of children; to amend section two of the Adoption of Children Act, 1926, and section two of the Adoption of Children (Scotland) Act, 1930; and for purposes connected with the matters aforesaid. [719] [13th July, 1939.]

Adoption Societies

1. Restriction on making arrangements for the adoption of children.

—(1) It shall not be lawful on and after the appointed day for any body of persons to make any arrangements for the adoption of a child unless that body is a registered adoption society or a local authority. [720]

The appointed day means such day as the Secretary of State may by order appoint; see s. 16 (2), *post*.

(2) If any person takes any part in the management or control of a body of persons which exists wholly or in part for the purpose of making arrangements for the adoption of children, and which is not a registered adoption society or a local authority, he shall, on summary conviction, be liable to imprisonment for a term not exceeding six months or to a

fine not exceeding two hundred pounds, or to both such imprisonment and such fine. [721]

(3) If any proceedings under this section, proof of things done or of words written, spoken, or published (whether or not in the presence of any party to the proceedings) by any person taking part in the management or control of the body of persons, or in making arrangements for the adoption of children on behalf of the body, shall be admissible as evidence of the purpose for which that body exists. [722]

See the Preliminary Note.

2. Registration of adoption societies.—(1) Subject to the following provisions of this Act, where application is made in the prescribed manner by or on behalf of an adoption society to the registration authority for the district in which the administrative centre of the society is situated, and there is furnished therewith the prescribed information relating to the activities of the society, the registration authority shall, on payment by the society of such fee (not exceeding one pound) as may be prescribed, register the society under this Act.

Any question as to where the administrative centre of an adoption society is situated shall be finally determined by the Secretary of State.

[723]

"Prescribed" means prescribed by regulations made by the Secretary of State; see s. 16 (2), *post*.

"Registration authority" means the council of any county or county borough; see *ibid*.
See the Preliminary Note.

(2) A registration authority shall not register an adoption society under this Act unless the authority is satisfied, by such evidence as the authority may reasonably require, that the society is a charitable association. [724]

See s. 16 (2), *post*, as to meaning of "registration authority" and "charitable association."

(3) A registration authority may refuse to register an adoption society under this Act, if it appears to the authority—

- (a) that the activities of the society are not controlled by a committee of members of the society who are responsible to the members of the society; or
- (b) that any person proposed to be employed, or employed, by the society for the purpose of making any arrangements for the adoption of children on behalf of the society is not a fit and proper person to be so employed; or
- (c) that the number of competent persons proposed to be employed, or employed, by the society for the purpose aforesaid is, in the opinion of the authority, insufficient having regard to the extent of the activities of the society in connection with that purpose; or
- (d) that any person taking part in the management or control of the society or any member of the society has been convicted of an offence under this Act or of a breach of any regulations made under this Act. [725]

(4) A registration authority may at any time cancel the registration of an adoption society on any ground which would entitle the authority to refuse an application for the registration of the society, or on the ground that the society is no longer a charitable association, or on the ground that the administrative centre of the society is no longer situated in the district of the authority. [726]

See the Preliminary Note.

3. Procedure and right of appeal where registration refused or cancelled.—(1) Where a registration authority proposes to refuse an application for registration made to it by or on behalf of an adoption society or to cancel the registration of an adoption society, the registration authority shall give to the society not less than fourteen days' notice in writing of its intention so to do, and every such notice shall state the grounds on which the authority intends to refuse the application or to cancel the registration, as the case may be, and shall contain an intimation that, if within fourteen days after the receipt of the notice the society informs the authority in writing that it desires so to do, the authority will, before refusing the application or cancelling the registration, as the case may be, give to the society an opportunity of causing representations to be made to the authority by or on behalf of the society. [727]

(2) If the registration authority, after giving to the society an opportunity of causing such representations as aforesaid to be made, decides to refuse the application for registration or to cancel the registration, as the case may be, it shall give to the society notice in writing of its decision. [728]

(3) Any adoption society aggrieved by the refusal of an application for registration, or by the cancellation of its registration, by a registration authority, may appeal to quarter sessions by a notice of appeal given within twenty-one days after notice in writing of the decision has been given to the society. [729]

(4) Section thirty-one of the Summary Jurisdiction Act, 1879 (which relates to appeals from courts of summary jurisdiction to courts of quarter sessions), shall apply in relation to an appeal under this section with the necessary modifications as if the decision of the registration authority were an order of the court of summary jurisdiction. [730]

For the Summary Jurisdiction Act, 1879, s. 31, see 11 Statutes 338.
See the Preliminary Note.

(5) Where the registration of an adoption society is cancelled by a registration authority, the adoption society shall, for the purposes of this Act, be deemed to be registered under this Act during the period within which an appeal against the cancellation may be brought under this section, and, if such an appeal is brought, until the determination or abandonment of the appeal. [731]

4. Regulations.—(1) The Secretary of State may make regulations—

(a) for regulating the conduct of negotiations entered into by or on behalf of registered adoption societies with persons having the care and possession of children who are desirous of causing the children to be adopted, and in particular, for securing—

(i) that, where the parent or guardian of a child proposes to place the child at the disposition of the society with a view to the child being adopted, he shall be furnished with a memorandum in the prescribed form explaining, in ordinary language, the effect, in relation to his rights as a parent or guardian, of the making of an adoption order in respect of the child, and calling attention to the provisions of the principal Act and of any rules made thereunder relating to the consent of a parent or guardian to the making of such an order, and to the provisions of this

- Act relating to the transfer of the care and possession of children to persons resident abroad, and
- (ii) that, before so placing the child at the disposition of the society, the parent or guardian shall sign a document in the prescribed form certifying that he has read and understood the said memorandum ;
- (b) for requiring that the case of every child proposed to be delivered by or on behalf of a registered adoption society into the care and possession of an adopter shall be considered by a committee (to be called a "case committee") appointed by the society for the purpose, and consisting of not less than three persons ;
- (c) for prescribing, in the case of every such child as aforesaid, the inquiries which must be made and the reports which must be obtained by the society in relation to the child and the adopter for the purpose of ensuring, so far as may be, the suitability of the child and the adopter respectively, and, in particular, for requiring that a report on the health of the child signed by a duly qualified medical practitioner must be obtained by the society ;
- (d) for securing that no such child shall be delivered into the care and possession of an adopter by or on behalf of the society until the adopter has been interviewed by the case committee or by some person on their behalf, until a representative of the committee has inspected any premises in Great Britain in which the adopter intends that the child should reside permanently, and until the committee have considered the prescribed reports ;
- (e) for requiring a registered adoption society to furnish to the registration authority by which the society was registered, the prescribed accounts and the prescribed information relating to the activities of the society ;
- (f) for making provision for the care and supervision of children who have been placed by their parents or guardians at the disposition of adoption societies ;
- (g) for prescribing anything which by this Act is required or authorised to be prescribed. [732]

(2) Any person who contravenes or fails to comply with the provisions of a regulation made under this section shall be liable, on summary conviction, to a fine not exceeding twenty-five pounds and, in the case of a second or subsequent conviction, to a fine not exceeding fifty pounds. [733]

See the Preliminary Note.

5. Inspection of books, etc., of registered adoption societies.—

(1) A registration authority may at any time give notice in writing to any registered adoption society which has been registered by the authority under this Act, or to any officer of such a society, requiring that society or officer to produce to the authority such books, accounts and other documents relating to the performance by the society of the function of making arrangements for the adoption of children, as the authority may consider necessary for the exercise of the powers conferred on the authority by subsection (4) of section two of this Act ; and any such notice may contain a requirement that any information to be

furnished in accordance with the notice shall be verified by statutory declaration. [734]

(2) Any person who fails to comply with the requirements of a notice under this section shall be liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine. [735]

See the Preliminary Note.

6. Provisions relating to arrangements made by registered adoption societies.—(1) It shall not be lawful for a registered adoption society to place any child for the adoption of whom arrangements are made by the society, in the care and possession—

- (a) of an adopter resident in Great Britain in whose favour an adoption order in respect of the child cannot lawfully be made; or
- (b) of any person resident abroad unless a licence has been granted in respect of the child in accordance with the provisions of section eleven of this Act. [736]

(2) Where arrangements are made by a registered adoption society for the adoption of a child by an adopter resident in Great Britain, no application to the court for an adoption order in respect of the child shall be made by the adopter until the expiration of a period of three months beginning with the date upon which the child is delivered into the care and possession of the adopter pursuant to the arrangements, and at any time during that period—

- (a) the adopter may give notice in writing to the society of his intention not to adopt the child, or
- (b) the society may cause notice in writing to be given to the adopter of its intention not to allow the child to remain in the care and possession of the adopter,

and, where a notice is so given, the adopter shall, within seven days of the date on which the notice was given, cause the child to be returned to the society, and the society shall receive the child accordingly. [737]

(3) If, at the expiration of the said period of three months, no notice has been given as aforesaid, the adopter shall within three months from the date upon which that period so expired apply to the court for an adoption order in respect of the child or shall give notice in writing to the society of his intention not to apply for such an order, and, where a notice is so given or where an application for an adoption order in respect of the child is refused by the court, the adopter shall, within seven days of the date on which the notice was given or of the date upon which the application is so refused, as the case may be, cause the child to be returned to the society, and the society shall receive the child accordingly. [738]

(4) Any person who contravenes the provisions of this section shall be liable, on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine, and the court by which the offender is convicted may order any child in respect of whom the offence is committed to be returned to his parents or guardian or to the registered adoption society. [739]

See the Preliminary Note.

*Protection of Adopted Children by Welfare Authorities***7. Certain adopted children to be supervised by welfare authorities.—**

(1) The provisions of this section shall, subject as hereinafter provided, have effect where arrangements for the placing of a child under the age of nine years in the care and possession of a person who is resident in Great Britain and who is not the parent or guardian or a relative of the child are made, and any person not being the parent or guardian of the child, or the person in whose care and possession he is to be placed participates in the making of the arrangements :

Provided that the said provisions shall not have effect where the person so participating is a registered adoption society or a local authority. [740]

(2) Where the provisions of this section have taken effect in relation to a child, they shall cease to have effect on the child attaining the age of nine years or on the making of an adoption order in respect of the child whichever event first happens. [741]

(3) Not less than seven days before possession is taken pursuant to such arrangements as aforesaid of a child in relation to whom the provisions of this section have effect (hereinafter in this section referred to as an "adopted child"), any person, not being the parent or guardian of the child, or the person in whose care and possession he is to be placed, who participates in the arrangements shall, unless an adoption order has been made in respect of the child upon the application of the person who is to have the care and possession of the child thereunder (hereinafter in this section referred to as an "adopter"), given notice in writing of the arrangements to the welfare authority for the area in which the adopter resides. [742]

(4) The notice required by the last preceding subsection shall state the name and sex of the adopted child, the name and address of the adopter, and the date and place of the child's birth. [743]

(5) Where a child is in the care and possession of an adopter, the adopter shall—

(a) if he changes his residence, give to the welfare authority notice of the change at least seven days before so doing and, where the residence to which he moves is situate in the area of another welfare authority, at least seven days before so moving, give to that welfare authority the like notice as respects the child as is required to be given under subsection (3) of this section, so, however, that where an immediate change of residence is necessitated by any emergency, the provisions of this paragraph shall be deemed to have been complied with if notice is given at any time within forty-eight hours after the change of residence ;

(b) if the child dies, within twenty-four hours of the death, give notice in writing thereof to the welfare authority and to the coroner of the district within which the body of the child lies, and the coroner shall hold an inquest thereon, unless there is produced to him a certificate of a registered medical practitioner certifying that that practitioner has personally attended the child during his last illness, and certifying also the cause of death, and the coroner is satisfied that there is no ground for holding an inquest. [744]

(6) If an adopted child—

- (a) is about to be received or is being kept by any person in any premises which are overcrowded, insanitary or dangerous, or in an environment which is detrimental to the child ; or
- (b) is in the care and possession of an adopter who, by reason of old age, infirmity, ill-health, ignorance, negligence, inebriety, immorality or criminal conduct, or for any other reason, is unfit to have care of the child ;

a court of summary jurisdiction may, on the application of the welfare authority, make an order for the removal of the child to a place of safety until he can be restored to his parents or guardian, or until other arrangements can be made with respect to him ; and, upon proof that there is imminent danger to the health or well-being of the child concerned, a justice (acting, if he deems it necessary *ex parte*) may exercise the like power on the application of a child protection visitor.

An order made under this subsection may be enforced by a child protection visitor ; and any person who refuses to comply with such an order upon its being produced, or who obstructs any such visitor in the enforcement of the order, shall be guilty of an offence under this section. [745]

(7) It shall be the duty of child protection visitors to visit and examine adopted children in the care and possession of adopters residing in the area of the welfare authority by which they were appointed to be visitors and the premises in which those children are being kept, and any person who refuses to allow any such visitor to make such a visit or examination as aforesaid shall be guilty of an offence under this section.

If any such visitor is refused admission to any premises in which he has reason to believe that an adopted child is being kept, he may apply to a justice of the peace, and the justice, if satisfied on sworn information in writing that admission has been refused and that there is reasonable ground for believing that an adopted child is being kept in the premises, may grant a warrant authorising the visitor to enter the premises, and any person who obstructs any visitor acting in pursuance of such a warrant shall be guilty of an offence. [746]

(8) The provisions of subsections (3) to (7) of this section shall not have effect where possession of an adopted child is proposed to be taken, or has been taken—

- (a) for a temporary purpose only ; or
- (b) by a person who has undertaken the nursing and maintenance of the child under Part VII of the Public Health Act, 1936, or Part XIII of the Public Health (London) Act, 1936, or under the provisions of any Act for the relief of the poor, or of any order made under such Act, or a person who undertakes the nursing and maintenance of children boarded out under subsection (3) of section eighty-four of the Children and Young Persons Act, 1933 ; or
- (c) by a registered adoption society, school, hospital, convalescent home, voluntary home within the meaning of the Children and Young Persons Act, 1933, or other similar institution, or an institution, house, or home certified or approved by the Board of Control under the Mental Deficiency Acts, 1913 to 1938, and in which no children under the age of nine years

who are not mental defectives within the meaning of those Acts are received ;

nor shall the said provisions apply in relation to an adopted child who is a mental defective under care elsewhere than in a certified institution, certified house or approved home, if he is so under care with the consent of the Board of Control under the Mental Deficiency Acts, 1913 to 1938, or if notice with respect to him has been given to the Board in accordance with subsection (2) of section fifty-one of the Mental Deficiency Act, 1913. [747]

For the Public Health Act, 1930, Part VII, see 29 Statutes 460. For the Public Health (London) Act, 1936, Part XIII, see 30 Statutes 581.

For the Children and Young Persons Act, 1933, s. 84 (3), see 26 Statutes 222. For the meaning of "voluntary home" in that Act, see s. 92 of that Act (*ibid.* 230).

For the Mental Deficiency Acts, 1913 to 1938, see 11 Statutes 160, 200; 31 Statutes 421. For s. 51 (2) of the 1913 Act, see 11 Statutes 189.

(9) If an adopter or any other person, in connection with any arrangements by virtue of which the provisions of subsections (3) to (7) of this section have effect, gives or agrees to give, or receives or agrees to receive, any remuneration or reward whatsoever, he shall be guilty of an offence. [748]

(10) Any person who fails to comply with the requirements of this section, or who commits an offence under this section, shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine, and the court may order any child in respect of whom the offence was committed to be removed to a place of safety, until he can be returned to his parents or guardian, or until other arrangements can be made with respect to him. [749]

As to the meaning of "place of safety", see definition in s. 16 (2), *post*, and note thereto.

(11) For the purposes of this section, a person shall be deemed to participate in the making of arrangements for the placing of a child in the care and possession of another person, if he enters into or makes any agreement or arrangement for, or for facilitating, the placing of the child in the care and possession of that other person, or if he initiates or takes part in any negotiations of which the purpose or effect is the conclusion of any agreement or the making of any arrangements therefor, or if he causes another so to do. [750]

As to the application of this section to the administrative county of London, see s. 16 (3), *post*.

See the Preliminary Note.

Amendment of principal Act

8. Amendment of 16 & 17 Geo. 5, c. 29, s. 2.—(1) The following amendments shall be made in subsection (1) of section two of the principal Act, that is to say :—

(a) the following proviso shall be added thereto—

"Provided that it shall be lawful for the court, if it thinks fit, to make an order—

(i) notwithstanding that the applicant is less than twenty-five years of age, if the applicant is the mother of the infant ; or

(ii) notwithstanding that the applicant is less than twenty-one years older than the infant, if the applicant and the infant are within the prohibited degrees of consanguinity, or if the application

is made by or on behalf of two spouses jointly and the wife is the mother of the infant or the husband is the putative father of the infant ” ;

(b) the proviso to paragraph (b) shall be repealed ;
and accordingly the said subsection shall have effect as set out in the Schedule to this Act. [751]

The principal Act is the Adoption of Children Act, 1926. For s. 2 (1), see 9 Statutes 827.

(2) The following subsection shall be substituted for subsection (5) of section two of the principal Act, that is to say :—

“ (5) An adoption order shall not be made—

(a) in favour of any applicant who is not both domiciled in England and Wales or in Scotland and resident in England or in Wales, or

(b) in respect of any infant who is not both a British subject and resident in England or in Wales ”. [752]

For s. 2 (5) of the principal Act, see 9 Statutes 828. The sub-section added to s. 2 (5) of the principal Act has been printed as amended by s. 2 (1) of the Postponement of Enactments (Miscellaneous Provisions) Act, 1939.

This section came into operation on 1st January, 1940 ; see the Preliminary Note.

Miscellaneous Provisions

9. Prohibition on payments in respect of adoptions except with leave of court.—(1) Subject to the provisions of this Act, it shall not be lawful for any person (not being a local authority) who makes arrangements for the adoption of a child to receive or agree to receive, or to make or agree to make, any payment or reward whatsoever in connection with the making of the arrangements :

Provided that this subsection shall not apply to any payments—

(a) the receipt or making whereof is sanctioned by the court to which an application for an adoption order in respect of a child is made, or to any agreement, whether entered into before or after the making of the application, with respect to the receipt or making of any such payments as may be so sanctioned ;

(b) made by or on behalf of a registered adoption society in respect of the maintenance of a child which has been placed at the disposition of the society ;

(c) made to a registered adoption society by the parent or guardian of a child or by any other person in respect of the maintenance of the child so long as the child is not in the care and possession of an adopter, being payments made weekly and at a rate not exceeding such rate as may be prescribed. [753]

(2) Any person who contravenes the provisions of this section shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds, or to both such imprisonment and such fine. [754]

See the Preliminary Note.

10. Restriction on advertisements.—(1) It shall not be lawful for any advertisement to be published indicating that—

(a) the parent or guardian of a child is desirous of causing the child to be adopted ; or

(b) a person is desirous of adopting a child ; or

(c) any person (not being a registered adoption society or a local authority) is willing to make arrangements for the adoption of a child. [755]

(2) Any person who causes to be published, or knowingly publishes, an advertisement in contravention of the provisions of this section shall be liable, on summary conviction, to a fine not exceeding fifty pounds. [756]

See the Preliminary Note.

11. Restriction on sending children for adoption abroad.—(1) It shall not be lawful for any person, in connection with any arrangements made for the adoption of a child who is a British subject, to permit, or to cause or procure, the care and possession of the child to be transferred to a person who is not a British subject or the guardian or a relative of the child and who is resident abroad. [757]

(2) It shall not be lawful for any person, in connection with any such arrangements as aforesaid, to permit or to cause or procure the care and possession of such a child as aforesaid to be transferred to a person who is a British subject resident abroad, and who is not the guardian or a relative of the child, unless a licence has been granted in respect of the child under this section. [758]

(3) A police magistrate may grant a licence in the prescribed form, and subject to such conditions and restrictions as the police magistrate thinks fit, authorising the care and possession of a child for whose adoption arrangements have been made to be transferred to a British subject resident abroad, but no such licence shall be granted unless the police magistrate—

(a) is satisfied that the application is made by or with the consent of every person or body who is a parent or guardian of the child in question, or who has the actual custody of the child, or who is liable to contribute to the support of the child ;

(b) is satisfied by a report of a British consular officer or any other person who appears to the police magistrate to be trustworthy, that the person to whom the care and possession of the child is proposed to be transferred is a suitable person to be entrusted therewith, and that the transfer is likely to be for the welfare of the child, due consideration being for this purpose given to the wishes of the child, having regard to the age and understanding of the child :

Provided that the police magistrate may dispense with the consent required by paragraph (a) of this subsection if the police magistrate is satisfied that the person whose consent is to be dispensed with has abandoned or deserted the child or cannot be found or is incapable of giving such consent or, being a person liable to contribute to the support of the child, either has persistently neglected or refused to contribute to such support, or is a person whose consent ought, in the opinion of the magistrate and in all the circumstances of the case, to be dispensed with. [759]

(4) Where a police magistrate grants a licence under this section, he may authorise the making or receipt by any person of any payments in consideration of the transfer of the care and possession of the child in respect of whom the licence is granted, and any person who gives or receives any payments so authorised shall not be deemed to contravene the provisions of section nine of this Act. [760]

(5) The Lord Chancellor may make rules with respect to the application for, and grant of, licences under this section. [761]

(6) Any person who contravenes the provisions of this section shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding fifty pounds or to both such imprisonment and such fine. [762]

(7) In any proceedings under this section, a report by a British consular officer or a deposition made before a British consular officer and authenticated under the signature of that officer shall, upon proof that the officer or deponent cannot be found in the United Kingdom, be admissible in evidence, and it shall not be necessary to prove the signature or official character of the person who appears to have signed any such report or deposition. [763]

(8) In this section the expression "police magistrate" means one of the following magistrates, that is to say—

- (a) the chief magistrate of the metropolitan police courts ; or
- (b) any magistrate of the metropolitan police court in Bow Street ;
or
- (c) any magistrate of the metropolitan police courts appointed by the Secretary of State to exercise jurisdiction under this section,

and the powers conferred by this section on a police magistrate shall in every case be exercisable by any such magistrate as aforesaid. [764]

See the Preliminary Note.

12. Offences committed by bodies corporate.—Where any offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, member of the committee, secretary or other officer of the body, he, as well as the body, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. [765]

See the Preliminary Note.

13. Prosecution of offences by registration authorities.—Proceedings for any offence under this Act may, in England or Wales, be taken by a registration authority. [766]

See the Preliminary Note.

14. Service of notices.—Any notice under this Act may be served by post. [767]

See the Preliminary Note.

[15. Application to Scotland.] [768]

16. Interpretation.—(1) For the purposes of this Act, a person shall be deemed to make arrangements for the adoption of a child if he, not being the parent or guardian of the child, enters into or makes any agreement or arrangement for, or for facilitating, the adoption of the child by any other person, whether the adoption is effected, or is intended to be effected, in pursuance of an adoption order or otherwise, or if he initiates or takes part in any negotiations of which the purpose or effect is the conclusion of any agreement or the making of any arrangement therefor, or if he causes another so to do. [769]

(2) In this Act, unless the context otherwise requires, the following

expressions have the meanings hereby respectively assigned to them, that is to say :—

“ abroad ” means outside Great Britain ;

“ adopter ” means a person who is proposing to adopt, or who has adopted a child, whether in pursuance of an adoption order or otherwise ;

“ adoption order ” means an adoption order for the purposes of the principal Act and includes an interim order made under section six of that Act ;

The principal Act is the Adoption of Children Act, 1926, 9 Statutes 827.

“ adoption society ” means a body of persons which performs, either as the whole or as part of its activities, the function of making arrangements for the adoption of children ;

“ body of persons ” means any body of persons, corporate or unincorporate ;

“ appointed day ” means such day as the Secretary of State may by order appoint ;

“ charitable association ” means any body of persons, which—

(a) exists only for the purpose of promoting a charitable, benevolent or philanthropic object, whether or not the object is charitable within the meaning of any rule of law ; and

(b) applies the whole of its profits, if any, or other income in promoting the object for which it exists ;

“ child ” means a person under the age of twenty-one years who has never been married ;

“ child protection visitor ” means any person appointed by a welfare authority to be a child protection visitor for the purposes of section two hundred and nine of the Public Health Act, 1936, and includes any person appointed under that section to exercise the powers of a child protection visitor ;

For the Public Health Act, 1936, s. 209, see 29 Statutes 465.

“ court ” means any court having jurisdiction to make adoption orders under the principal Act ;

“ guardian ” in relation to a child, means a person appointed by deed or will in accordance with the provisions of the Guardianship of Infants Acts, 1886 and 1925, or by a court of competent jurisdiction, to be his guardian ;

For the Guardianship of Infants Acts, 1886 and 1925, see 9 Statutes 787, 820.

“ local authority ” means the council of a county, county borough, metropolitan borough, non-county borough, urban district or rural district, and includes the Common Council of the City of London ;

“ place of safety ” has the same meaning as in Part VII of the Public Health Act, 1936 ;

For the meaning of “ place of safety ” in Part VII of the Public Health Act, 1936, see s. 220 of that Act (29 Statutes 470).

“ prescribed ” means prescribed by regulations made by the Secretary of State ;

“ registered adoption society ” means an adoption society registered under this Act ;

“ registration authority ” means the council of any county or county borough ;

"relative" means a grandparent, brother, sister, uncle or aunt, whether by consanguinity or affinity, and in the case of an illegitimate child, a person who would be so related if the child were legitimate;

"the principal Act" means the Adoption of Children Act, 1926;

For the Adoption of Children Act, 1926, see 9 Statutes 827.

"welfare authority" means a welfare authority for the purposes of Part VII of the Public Health Act, 1936. [770]

For Part VII of the Public Health Act, 1936, see 29 Statutes 460.

(3) In the application of section seven of this Act to the administrative county of London, that section shall have effect subject to the modification that the functions conferred thereby on welfare authorities and on child protection visitors shall be performed respectively by the London County Council and by such persons as may be appointed by that Council to perform the functions of child protection visitors for the purposes of that section. [771]

(4) References in this Act to any other enactment shall be construed as references to that enactment as amended by any subsequent Act including, unless the context otherwise requires, this Act. [772]

See the Preliminary Note.

17. Short title, commencement and extent.—(1) This Act may be cited as the Adoption of Children (Regulation) Act, 1939.

(2) This Act shall come into operation on the first day of January, nineteen hundred and forty.

(3) This Act shall not extend to Northern Ireland. [773]

See the Preliminary Note as to the alteration of the date of coming into operation by the Postponement of Enactments (Miscellaneous Provisions) Act, 1939.

Sect. 8.

SCHEDULE

SUBSECTION (1) OF SECTION TWO OF THE ADOPTION OF CHILDREN ACT, 1926, AS AMENDED BY THIS ACT

2. Restrictions on making adoption orders.—(1) An adoption order shall not be made in any case where—

(a) the applicant is under the age of twenty-five years, or

(b) the applicant is less than twenty-one years older than the infant in respect of whom the application is made:

Provided that it shall be lawful for the court, if it thinks fit, to make an order—

(i) notwithstanding that the applicant is less than twenty-five years of age, if the applicant is the mother of the infant; or

(ii) notwithstanding that the applicant is less than twenty-one years older than the infant, if the applicant and the infant are within the prohibited degrees of consanguinity, or if the application is made by or on behalf of two spouses jointly and the wife is the mother of the infant or the husband is the putative father of the infant. [774]

THE POSTPONEMENT OF ENACTMENTS (MISCELLANEOUS PROVISIONS) ACT, 1939

(3 & 4 GEO. 6, c. 2)

An Act to postpone the commencement of the House to House Collections Act, 1939, the Marriage (Scotland) Act, 1939, and certain

provisions of the Adoption of Children (Regulation) Act, 1939, to amend sections eight and fifteen of the last mentioned Act, and to amend the provisions of section one hundred and forty of the Law of Property Act, 1922, with respect to the period within which applications may be made under that section. [775] [14th December 1939.]

1. Postponement of operation of certain Acts.—(1) The coming into operation of the Acts mentioned in the Schedule to this Act, except such provisions thereof as are specified in the third column of that Schedule, shall be postponed until such date as His Majesty may by Order in Council appoint. [776]

(2) Different dates may be appointed by an Order in Council under this section in relation to the said Acts respectively or to different provisions thereof. [777]

2. Amendment of 2 & 3 Geo. 6, c. 27, ss. 8 & 15.—

(1) Section eight of the Adoption of Children (Regulation) Act, 1939, shall have effect as if the subsection thereby substituted for subsection (5) of section two of the Adoption of Children Act, 1926, were in the following terms, that is to say:—

“(5) An adoption order shall not be made—

- (a) in favour of any applicant who is not both domiciled in England and Wales or in Scotland and resident in England or in Wales, or
- (b) in respect of any infant who is not both a British subject and resident in England or in Wales.” [778]

(2) Paragraph (d) of section fifteen of the Adoption of Children (Regulation) Act, 1939, shall have effect as if the subsection thereby substituted for subsection (5) of section two of the Adoption of Children (Scotland) Act, 1930, were in the following terms, that is to say:—

“(5) An adoption order shall not be made—

- (a) in favour of any applicant who is not both domiciled in Scotland or in England and Wales and resident in Scotland, or
- (b) in respect of any infant who is not both a British subject and resident in Scotland.” [779]

For section 2 of the Adoption of Children Act, 1926, see 9 Statutes 828.

3. Postponement of applications under 12 & 13 Geo. 5, c. 16, s. 140.—Section one hundred and forty of the Law of Property Act, 1922 (which authorises the making of applications for the determination of compensation for the extinguishment of manorial incidents at any time before the expiration of fifteen years from the first day of January nineteen hundred and twenty-six) shall have effect subject to the following provisions, that is to say,—

- (a) no application under the said section made on or after the twenty-ninth day of November nineteen hundred and thirty-nine and before such date as His Majesty may by Order in Council appoint shall be of any effect;
- (b) notwithstanding anything in the said section, such an application as aforesaid may be made at any time during the

period of twelve months beginning on the date appointed under the foregoing paragraph; and

- (c) in accordance with the foregoing provisions, paragraph (c) of the said section shall have effect as if for the words "before the expiration of the said period of fifteen years" there were substituted the words "before the twenty-ninth day of November nineteen hundred and thirty-nine or during the period of twelve months beginning on the date appointed by Order in Council under section three of the Postponement of Enactments (Miscellaneous Provisions) Act, 1939."

[780]

For section 140 of the Law of Property Act, 1922, see 3 Statutes 652.

4. Short title.—This Act may be cited as the Postponement of Enactments (Miscellaneous Provisions) Act, 1939. [781]

SCHEDULE

Section 1.

ACTS THE COMING INTO OPERATION OF WHICH IS POSTPONED

Session and Chapter	Short Title	Provisions excepted from postponement
2 & 3 Geo. 6, c. 27.	The Adoption of Children (Regulation) Act, 1939:	Section eight. In section fifteen, paragraph (d), and, in paragraph (h), the definition of "the principal Act." In section sixteen, in subsection (2), the definition of "the principal Act." The Schedule.
2 & 3 Geo. 6, c. 34.	The Marriage (Scotland) Act, 1939.	—
2 & 3 Geo. 6, c. 44.	The House to House Collections Act, 1939.	—

[782]

ORDERS, CIRCULARS AND MEMORANDA

CHILDREN AND YOUNG PERSONS (CONTRIBUTIONS BY LOCAL AUTHORITIES) REGULATIONS, 1939

S. R. & O., 1939, No. 13

January 17, 1939

1. In pursuance of the powers conferred upon me by section 90 of the Children and Young Persons Act, 1933, I, the Right Honourable Sir Samuel Hoare, Baronet, one of His Majesty's Principal Secretaries of State, hereby prescribe contributions at the rate of seventeen shillings a week as the contributions to be made by the local authority named in an approved school order to the expenses of the managers of an

approved school throughout the time during which the person to whom the order relates is under the care of the said managers and not out on licence or under supervision.

2. These Regulations shall not apply to a local authority named in an approved school order where the managers having under their care the person to whom the order relates are the local authority, whether as local education authority for elementary education or otherwise, or are a joint committee upon which the local authority, whether as local education authority for elementary education or otherwise, are represented.

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

4.—(i) These Regulations may be cited as the Children and Young Persons (Contributions by Local Authorities) Regulations, 1939.

(ii) These Regulations shall come into force on the 1st April, 1939.

(iii) The Children and Young Persons (Contributions by Local Authorities) Regulations, 1938, are hereby revoked.

* * * * *

[783]

VILLAGE HALLS AND CLUB PREMISES

Circular 1917 (Ministry of Health)

Circular 1488 (Board of Education)

November 28, 1939

1. The Government have recently had under consideration the question of premises in all types of areas for social and physical training. The problem has already been approached from the limited standpoint of the Government's Evacuation Scheme. For example, in the Board's circular 1467 it was urged that school buildings should not be diverted from their normal use except in agreement with the Local Education Authority, and that, in reception areas, school buildings should not, save in the last resort, be taken for Air Raid Precautions. In a further Circular (1474) the Board dealt with the question of leisure occupations for evacuated school children, and pointed out that local school buildings, provided that enough time was left for cleaning, would be available after school hours for this purpose.

2. The Government desire now to invite attention to the wider aspects of the problem. The need for social and physical recreation and for occupational and instructional classes and lectures in leisure time is accentuated by the Government's Evacuation Scheme, but it should not be regarded merely as an evacuation problem. These activities are an essential part of the communal life of every area, whether in town or country, and their importance is not limited to any one section of the population. But it is clear that they cannot be maintained, still less developed, without the use of village halls, clubs, communal centres, or other suitable premises.

3. Under present conditions there will often be competing claims for the use, for example, of the village hall. Quite apart from the possible requirements of the Military (to which reference is made in paragraph 6 below), the village hall may often be the easy solution for some problem of reception. It may, for example, be convenient

to use it as a hostel for those who cannot suitably be billeted or perhaps as a sick bay for children removed from billets. It is not possible to say that in particular cases such use of the village hall is inappropriate, but it is evident that to use it in this way may deprive the village of its most useful—possibly its only—centre of community life.

4. The need of suitable premises, whether in town or country districts, is part of the problem of the welfare of young people between 14 and 18, which has been seriously aggravated by the abnormal conditions of war-time. In evacuation areas, particularly, it is already apparent that grave social problems are arising, due to abrupt changes of employment, the inevitable strain of war, absence of one or both parents, the long dark evenings, and the inadequate outlets for physical exercise and recreation. To some extent similar conditions affect neutral and reception areas and, in the reception areas, owing to the increased child population, there must of necessity be a strain on both facilities and personnel which inevitably reacts on the situation in regard to those of post-school age.

These difficulties, under which youth organisations are suffering, are increased when, as is not infrequently the case, club premises, community centres, and village halls are requisitioned to meet the needs of civil defence.

5. Local authorities are accordingly urged to survey the existing facilities for social and recreational work in their areas with a view to seeing what can be done to release the whole or part of premises of which possession has been taken in order that facilities for communal needs may not be seriously curtailed. In the case of villages, where the village hall may be the only suitable building available, it may be possible to draw up a time-table under which the hall can be used for social and recreational work as well as for emergency requirements without seriously interfering with the requirements of either. Similar considerations will apply in the case of newly developed areas, where the only available building is a community centre or parish hall. In towns and urban areas, where separate buildings exist for clubs and other youth organisations, Authorities are asked to consider the possibility of substituting alternative premises for civil defence purposes or, at least, of confining the requisition to a part of the premises, leaving the remainder free for their normal use.

6. It is recognised that the allocation of premises by the police for the billeting of members of the Defence Forces has an important bearing on the problem referred to in the foregoing paragraphs of this Circular, and a letter has been addressed by the Home Office to all Chief Constables inviting their attention to the importance in the national interests of safeguarding to the fullest possible extent, consistent with over-riding military needs, the availability of premises and facilities for social welfare. [784]

INFECTIOUS DISEASES

See DISEASES.

LAND DRAINAGE

CASES :—	PAGE	Re	PAGE
Kent and Porter v. East Suffolk Rivers Catchment Board, [1939] 4 All E.R. 174—C.A. -	423	Fitzherbert-Brockhole's Agreement, River Wyre Catchment Board v. Miller (1939), 103 J. P. 379 -	423

CASES

Catchment Board—River-wall—Duty to Repair—Liability for Misfeasance—Negligent Repair—Land Drainage Act, 1930 (c. 44), s. 34.

Plaintiffs were the owners of land protected by a wall from inundation by a tidal river. At a time when the height of a spring flood tide was increased by a northerly gale, the wall partly collapsed, leaving a breach 20 feet to 30 feet wide. As a result, plaintiffs' lands were flooded. Defendants, the catchment board for the area in which those lands were situated, attempted to repair the breach by running a dam straight across it. It was proved that this method of repair was impracticable and that the correct method was to construct a V-shaped dam. It was also proved that the defendants had attempted the work with an insufficient number of men :—

Held : (i) Land Drainage Act, 1930, s. 34, does not place upon a catchment board an imperative duty to repair a breach in a drainage work. The power is purely a permissive one ;

(ii) while the catchment board were not liable for non-feasance, they were liable for misfeasance ;

(iii) on the facts, the board had undertaken the work of repairing the breach, and they had done that work negligently. They were therefore liable in damages for the ensuing injury to plaintiffs' land.

Per DU PARCQ, L.J., distinguishing ; the board was under no duty to do the work for the benefit of the plaintiffs with efficiency and despatch.—*KENT v. EAST SUFFOLK RIVERS CATCHMENT BOARD*, [1940] 1 K. B. 319 ; [1939] 4 All E. R. 174 ; 109 L. J. K. B. 80 ; 161 L. T. 341 ; 104 J. P. 1 ; 56 T. L. R. 86 ; Digest Supp., C. A. [785]

Catchment Board—Drainage District—Execution of Drainage Works—Maintenance—Obligations on Land owner Benefiting—Commutation of Obligations—Voluntary Payments by Successor in Title to Covenantor—Not Commutable Obligation—Land Drainage Act, 1930 (20 & 21 Geo. V., c. 44, s. 9 (1)).

Defendant, over a period of years, voluntarily made yearly payments in accordance with a covenant by her predecessor in title under an agreement made in 1853 by which he had agreed, in consideration of the benefits which he would derive from the execution and maintenance of certain drainage works, to contribute his proportion of the costs of the improvement of the drainage :—

Held : the voluntary payments did not constitute an obligation under the agreement or under s. 9 (1) of the Land Drainage Act, 1930, which it was the duty of the catchment board concerned to commute.—*Re FITZHERBERT-BROCKHOLES AGREEMENT, RIVER WYRE CATCHMENT BOARD v. MILLER*, [1940] 1 Ch. 51 ; 109 L. J. Ch. 17 ; 162 L. T. 43 ; 103 J. P. 379 ; 56 T. L. R. 62 ; Digest Supp. [786]

LOCAL LOANS

See FINANCE.

LOCAL TAXATION LICENCES

	PAGE		PAGE
STATUTES :—		Use of Unlicensed Vehicles for	
Finance Act, 1939 - - -	424	A.R.P. Purposes : Circular	
ORDERS, CIRCULARS AND MEMO-		254/1939 - - -	426
RANDA :—		Road Vehicles (Part Year Licens-	
Defence (General) Regulations,		ing) Order, 1939 - - -	428
1939, Regulation 72 (5) [see			
p. 739, <i>post</i>]			

STATUTES

THE FINANCE ACT, 1939

(2 & 3 Geo. 6, c. 41)

An Act to grant certain duties of Customs and Inland Revenue (including Excise), to alter other duties, and to amend the law relating to Customs and Inland Revenue (including Excise) and the National Debt, and to make further provision in connection with finance. [787]
[28th July, 1939.]

* * * * *

9. Increased excise duties on mechanically propelled vehicles.—As from the first day of January, nineteen hundred and forty, section thirteen of the Finance Act, 1920 (which imposes duties of excise in respect of mechanically propelled vehicles) shall have effect as if the paragraphs set out in Parts I and II of the Eighth Schedule to this Act were respectively substituted for paragraphs 1 and 6 of the Second Schedule to that Act. [788]

For the Finance Act, 1920, s. 13, 2nd Schedule, paras. 1 and 6, see 16 Statutes 852, 861, 864. The substituted provisions relate to motor cycles and "other vehicles."

10. Reduction of duty on certain mechanically propelled vehicles used for agricultural purposes.—(1) In paragraph 4 of the Second Schedule to the Finance Act, 1920 (which, as amended by the Seventh Schedule to the Finance Act, 1938, prescribes the rate of duty payable under section thirteen of the Finance Act, 1920, in respect of the mechanically propelled vehicles therein mentioned), for sub-paragraph (a) there shall be substituted the following sub-paragraph—

(a) Locomotive ploughing engines, tractors, agricultural tractors and other agricultural engines, which are not used on roads for hauling any objects except as follows, that is to say—

(i) for hauling their own necessary gear, threshing appliances, farming implements, a living van for the accommodation of persons employed

in connection with the vehicle, or supplies of water or fuel required for the purposes of the vehicle or for agricultural purposes;

(ii) for hauling from one part of a farm in the occupation of the person in whose name the vehicle is registered under the Roads Act, 1920, to another part of that farm, agricultural produce of, or articles required for the farm - - - 5s. 0d.

[789]

For the Finance Act, 1920, Second Schedule, par. 4, as amended by the Finance Act, 1933, see 26 Statutes 684.

(2) In subsection (7) of section two of the Finance Act, 1935 (which excepts from the provisions of that section withdrawing the rebate on heavy oils used as fuel for mechanically propelled vehicles the vehicles specified in sub-paragraph (a), (b), or (c) of the said paragraph 4), the reference to the said sub-paragraph (a) shall be construed as a reference to the sub-paragraph substituted therefor by this section. [790]

For the Finance Act, 1935, s. 2 (7), see 28 Statutes 311.

* * * * *

Section 9.

EIGHTH SCHEDULE

AMENDED RATES OF DUTY IN THE CASE OF CERTAIN MECHANICALLY PROPELLED VEHICLES

PART I

PARAGRAPH TO BE SUBSTITUTED FOR PARAGRAPH 1 OF THE SECOND SCHEDULE TO THE FINANCE ACT, 1920

Description of vehicle.	Rate of duty.
	£ s. d.
1. Cycles (including motor scooters and cycles with an attachment for propelling them by mechanical power) not exceeding 8 cwt. in weight unladen—	
(a) Bicycles—	
Where the cylinder capacity of the engine thereof—	
(i) does not exceed 150 cubic centimetres -	17 6
(ii) exceeds 150 cubic centimetres but does not exceed 250 cubic centimetres - - -	1 17 6
(iii) exceeds 250 cubic centimetres—	
In a case where the bicycle is one in respect of which a licence was taken out before the first day of January, nineteen hundred and thirty-three, and does not exceed 224 lbs. in weight unladen -	1 17 6
In any other case - - -	3 15 0
(b) Bicycles, if used for drawing a trailer or sidecar -	1 5 0
(c) Tricycles—	
Neither constructed nor adapted for use nor used for the carriage of a driver or a passenger - -	2 0 0
Other tricycles - - - - -	5 0 0

The duty chargeable under sub-paragraph (b) of this paragraph in respect of any bicycle shall be chargeable in addition to the duty chargeable on the bicycle under sub-paragraph (a) of this paragraph. [791]

PART II

PARAGRAPH TO BE SUBSTITUTED FOR PARAGRAPH 6 OF THE SECOND SCHEDULE
TO THE FINANCE ACT, 1920

Description of vehicle.	Rate of duty.		
	£	s.	d.
6. Any vehicles other than those charged with duty under the foregoing provisions of this Schedule :—			
Electrically propelled vehicles	—	—	7 10 0
Other vehicles—			
Not exceeding 6 horse-power	—	—	7 10 0
Exceeding 6 horse-power—			
For each unit or part of a unit of horse-power	—	—	1 5 0

[792]

ORDERS, CIRCULARS AND MEMORANDA

A.R.P. DEPARTMENT CIRCULAR No. 254/1939

USE OF UNLICENSED VEHICLES FOR A.R.P. PURPOSES

September 23, 1939

SIR,—I am directed by the Minister of Home Security to refer to A.R.P. Department Circular No. 199/1939 regarding the arrangements for obtaining the use of vehicles for emergency civil defence purposes and to invite your authority's attention to Regulation 72 (5) of the Defence Regulations which provides for the use in certain circumstances of unlicensed and unregistered vehicles. The Minister of Transport has made Directions dated 29th August and 3rd September under the Regulation in question, the effect of which is to include in the services on behalf of which unlicensed vehicles may be used on the roads, vehicles engaged in the carrying or drawing of personnel or equipment for the purposes of Air Raid Precautions. Such vehicles must exhibit a certificate in the form set out in Schedule II of Appendix II to this circular. The certificate must bear both the stamp of the local authority and of the Minister of Transport. This latter stamp will be affixed by the Ministry's District Transport Officer upon application if he is satisfied as to the grounds upon which the certificate is required. The Certificate will remain valid only for so long as the vehicle continues to be used solely and exclusively for A.R.P. purposes; if it ceases to be so used the Certificate lapses and must be removed from the vehicle. The Certificate is not available in respect of vehicles used partly for A.R.P. and partly for other purposes.

With regard to vehicles taken over for full-time and sole use as emergency *ambulances* (i.e., stretcher-carrying vehicles) it is pointed out that the statutory exemption from licence duty provided by Section 13 (4) of the Finance Act, 1920, reproduced in Appendix I of this Circular will operate. The procedure is the same as that involved in the licensing, without payment, of peace-time ambulances. Such exemption applies only to a vehicle which is used *solely* as an ambulance and only so long as it is thus used: if it ceases to be so used the exemption lapses and the form of licence must be removed from the vehicle. In exceptional circumstances, e.g., where it is urgently necessary to place an unlicensed vehicle on the road for use as an emergency ambulance pending the completion of the formalities

of licensing and registration, recourse may, however, be had to the powers provided under Regulation 72 (5).

Copies of the Directions of the Minister of Transport dated 29th August and 3rd September referred to above are reproduced as Appendices II and III of this Circular.

I am, Sir, etc.

APPENDIX I

FINANCE ACT, 1920

Section 13 (4)

"No duty shall be payable under this section in respect of fire engines, vehicles kept by a local authority while they are used for the purposes of their fire brigades service, ambulances or road rollers."

APPENDIX II

DIRECTIONS BY THE MINISTER OF TRANSPORT

Unlicensed Vehicles

Whereas it is provided in the Regulation made under the Emergency Powers (Defence) Act, 1939, of which Regulation the marginal note is "Modification of enactments relating to road vehicles and drivers thereof" that :—

"(5) Nothing in section 13 of the Finance Act, 1920, or in section five of the Roads Act, 1920, shall apply in relation to any vehicle being used for the purposes of His Majesty's service or any services designated for the purposes of this paragraph by the Minister of Transport, being services which appear to him to be essential for the defence of the realm or the efficient prosecution of the war or to be essential to the life of the community, if and so long as there is exhibited on the vehicle, in accordance with directions given by the said Minister, a certificate that the vehicle is being so used in a case of emergency."

Now, therefore, the Minister of Transport, in exercise of the powers vested in him under or by virtue of the aforesaid Regulation and of all other powers in that behalf vested in him, directs as follows :—

1. The certificate to be issued in pursuance of the aforesaid Regulation shall be :—

- (a) in the case of a vehicle being used for the purposes of His Majesty's service, in the form specified in Schedule I to this Direction ; and signed by the user of the vehicle or by some duly authorized person in his behalf and
- (b) in any other case, in the form specified in Schedule II to this Direction.

2. A certificate in the form specified in Schedule II shall be signed on behalf of a local authority exercising functions in connection with a service designated in the next following paragraph and shall bear the impression of the stamp of that local authority and also (after the 15th day of September, 1939), of the stamp of the Ministry of Transport.

3. The services designated for the purposes of the said Regulation by the Minister of Transport as services which appear to him to be essential for the defence of the realm, or the efficient prosecution of the war, or essential to the life of the community, are the following :—

The removal, in the event of hostile attack or of the Minister of Health having reason to expect hostile attack, of sick persons undergoing treatment in any place.

Transport to First Aid Posts or to hospitals of casualties occurring from hostile attack.

Transference of members of the civil population from one area to another in the event of war or the imminence of war.

* * * * *

SCHEDULE I

Defence of the Realm. (a)

This vehicle is being used for the purposes of

HIS MAJESTY'S SERVICE

in a case of emergency.

Signed.....

SCHEDULE II

Defence of the Realm. (a)

This vehicle is being used in a case of emergency for designated services.

Signed

[Ministry of Transport stamp (if vehicle is used after 15th September, 1939.) on behalf of [Stamp of local authority].

(a) Insert here Index Mark and Registration Number of vehicle or other identifying number.

APPENDIX III

DIRECTION BY THE MINISTER OF TRANSPORT

Unlicensed Vehicles

The Minister of Transport in pursuance of his powers in that behalf hereby modifies as follows the Directions issued by him on the 29th August, 1939, with respect to the use of unlicensed vehicles on certain services.

To the services specified in paragraph 3 of the said Directions there shall be added :—

The carrying or drawing of personnel or equipment for the purposes of Auxiliary Fire Services or Air Raid Precautions.

* * * * *

[793]

ROAD VEHICLES (PART YEAR LICENSING) ORDER, 1939

S. R. & O., 1939, No. 1807

December 7, 1939

The Minister of Transport, in exercise of the powers conferred on him by section 22 of the Finance Act, 1921, and section 26 of the Finance Act, 1933, hereby orders as follows :—

1. This Order may be cited as "The Road Vehicles (Part Year Licensing) Order, 1939", and shall come into force on the 1st January, 1940.

2. In this Order the expression—

"Quarterly period" means any of the periods from the 1st January to the 24th March, from the 25th March to the 30th June, from the 1st July to the 30th September, or from the 1st October to the 31st December in any year.

"Month" means calendar month, except that the month of March shall be deemed to end on the 24th of that month and the month of April shall be deemed to begin on the 25th March.

"Licence" means a licence taken out under the provisions of section 13 of the Finance Act, 1920, for any vehicle other than a tramcar or a vehicle on which a duty of five shillings is chargeable under that Act.

3. The periods of the year for which licences may be taken out shall be either the period of one calendar year, or any of such periods less than a year as are hereinafter specified and the duties payable in respect of licences for periods less than a year shall be at the rates hereinafter specified (a fraction of a penny being reckoned as a penny), that is to say :—

A licence may be taken out—

- (i) for any period of a year commencing before the 1st October and expiring on the 31st December and the duty payable upon such licence shall be the total of an amount calculated at the rate of one-twelfth of the full annual rate of duty for each month or part of a month included in the period and a further amount calculated at the rate of five per cent. upon the amount so ascertained as aforesaid ;
- (ii) for any quarterly period on payment of twenty-seven and a half per cent. of the full annual rate of duty ;
- (iii) for any period less than a quarterly period expiring on the last day of any quarterly period and the duty payable on such licence shall, if the licence be taken out for a greater period than two months, be at the full quarterly rate of duty or, if the licence is taken out for a period commencing on or after the first day of the second month of the quarterly period, shall be two-thirds of the full quarterly rate of duty or, if the licence is taken out for a period commencing on or after the first day of the third month of the quarterly period, shall be one-third of the full quarterly rate of duty ; and
- (iv) in the case of vehicles to which section 26 of the Finance Act, 1933, applies and the unladen weight of which exceeds 11 tons, for any period of seven consecutive days and the duty payable upon such licence shall be one fifty-second of the full annual rate of duty and a further amount calculated at the rate of ten per cent. upon the amount so ascertained as aforesaid.

4. The Road Vehicles (Part Year Licensing) Order, 1924, the Road Vehicles (Part Year Licensing) (Amendment) Order, 1928, the Road Vehicles (Part Year Licensing) Order, 1932, the Road Vehicles (Part

Year Licensing) (Amendment) Order, 1933, and the Road Vehicles (Part Year Licensing) Order, 1936, are hereby revoked.

5. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament.

* * * * *

[794]

LONDON

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STATUTES

THE LONDON GOVERNMENT ACT, 1939

(2 & 3 Geo. 6, c. 40)

INTRODUCTORY NOTE

THIS Act consolidates, with some amendments, the statutory provisions relating to the constitution of the London County Council and the twenty-eight Metropolitan Borough Councils, the qualifications of members, the procedure at elections, the appointment and constitution of committees, the officers of the authorities, the acquisition of land for the purposes of their powers and duties, their finance, and other miscellaneous matters.

The London County Council was constituted under the Local Government Act, 1888, and in addition to the greater part of the functions of a county council under that Act, it retained the functions of the Metropolitan Board of Works under the Metropolis Management Acts. The Metropolitan Borough Councils were constituted under the London Government Act, 1899, replacing Vestries and District Boards functioning under the Metropolis Management Acts. The powers and duties both of the County Council and of the Metropolitan Borough Councils have been increased, and their constitution, etc., altered by a series of Acts, both public and local.

In this Act, not only are these enactments consolidated, but the opportunity has also been taken to bring the law relating to London into line with that relating to other parts of the country by expressing in language similar to that of the Local Government Act, 1933, these provisions which in effect were of general application, and by extending to London certain provisions of that Act which did not previously apply to London.

In the notes to the sections attention has been called to the corresponding sections of the Act of 1933, and the notes to that Act may be referred to. It has not been thought necessary to indicate throughout the Act the sections of the former Acts applicable to London in which similar provisions were contained, though this has been done where it appears to be useful. It does not, therefore, follow that sections are new to London if the only reference to the notes is to the Act of 1933.

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An Act to consolidate with amendments certain enactments relating to local government in London. [795] [18th July, 1939.]

PART I

CONSTITUTION AND ELECTIONS

ADMINISTRATIVE COUNTY OF LONDON

1. **Administrative county of London.**—(1) London, that is to say, the area consisting of—

- (a) the City of London ;
- (b) the metropolitan boroughs specified in the First Schedule to this Act ; and
- (c) the places known respectively as the Inner Temple and the Middle Temple,

shall be an administrative county, for the purposes of local government, by the name of "The Administrative County of London", and the said county is in this Act referred to as "the county". [796]

By the Metropolis Management Act, 1855 (11 Statutes 889), there were established a Metropolitan Board of Works and a number of Vestries and District Boards having jurisdiction over certain parishes and groups of parishes in Middlesex, Surrey, and Kent. By L.G.A. 1888, s. 40 (10 Statutes 718), the area of the "metropolis" was made an administrative county by the name of the Administrative County of London, and a county council was established having with certain exceptions the powers, duties, and liabilities of a county council, and having also the powers, duties, and liabilities of the Metropolitan Board of Works, which ceased to exist. The Vestries and District Boards continued as before until they were abolished by the London Government Act, 1899 (11 Statutes 1225), and in their places twenty-eight Metropolitan Boroughs were established, their combined areas, together with that of the City of London, and the Inner and Middle Temples, being coterminous with that of the administrative county. This sub-s., therefore, is a re-statement of the combined effect of the Metropolis Management Act, 1855, Schedules (A), (B), and (C), L.G.A. 1888, s. 40 (1), and s. 1 of the 1st Schedule of the London Government Act, 1899.

(2) Subject to any alteration of boundaries which may be made in pursuance of any enactment, the boundaries of the City of London, of each metropolitan borough, and of the Inner Temple and the Middle Temple shall be the same as the boundaries of those areas respectively immediately before the commencement of this Act. [797]

LONDON COUNTY COUNCIL

Constitution

2. Establishment of county council.—(1) There shall be, a county council for the county consisting of the chairman, county aldermen and county councillors, and the council shall have all such functions as are vested in it by this Act or otherwise. [798]

(2) The county council shall be a body corporate by the name of "The London County Council", and shall have perpetual succession and a common seal, with power to hold land for the purposes of its constitution without licence in mortmain. [799]

This section reproduces, in their application to London, L.G.A. 1888, s. 1 and part of s. 2 (10 Statutes 686—687) and in particular L.G.A. 1933, s. 2 (26 Statutes 370).

Chairman, Vice-Chairman and Deputy Chairman of County Council

3. Chairman of county council.—(1) The chairman of the county council shall be elected annually by the council from among the county aldermen or county councillors or persons qualified to be county aldermen or county councillors.

(2) The chairman shall, unless he resigns or becomes disqualified for being a member of the council, continue in office until his successor becomes entitled to act as chairman.

(3) During his term of office the chairman shall continue to be a member of the council notwithstanding the provisions of this Act relating to the retirement of county councillors at the end of three years.

(4) The council may pay to the chairman such remuneration as it thinks reasonable.

(5) The chairman shall, by virtue of his office, be a justice of the peace for the county of London, but before acting as such a justice he shall take the oaths required by law to be taken by a justice of the peace for that county, unless he is, at the date on which he becomes entitled to act as chairman, a justice of the peace for that county and

has taken the oaths required by law to be taken to enable him to act as such a justice. [800]

This section corresponds to L.G.A. 1933, s. 3 (26 Statutes 307).

4. Election of chairman.—(1) The election of the chairman of the county council shall be the first business transacted at the annual meeting of the council.

(2) An outgoing county alderman shall not, as alderman, vote at the election of a chairman.

(3) In the case of an equality of votes, the person presiding at the meeting, whether or not he voted or was entitled to vote in the first instance, shall give a casting vote. [801]

This section corresponds to L.G.A. 1933, s. 4 (26 Statutes 308).

5. Vice-chairman of county council.—(1) The county council shall appoint a member of the council to be vice-chairman of the council.

(2) The vice-chairman shall, unless he resigns or becomes disqualified for being a member of the council, hold office until immediately after the election of a chairman at the next annual meeting of the council, and during that time shall continue to be a member of the council notwithstanding the provisions of this Act relating to the retirement of county councillors at the end of three years.

(3) Subject to any standing orders made by the council, anything authorised or required to be done by, to or before the chairman may be done by, to or before the vice-chairman, except that he shall not be, by virtue of his office, a justice of the peace. [802]

This section corresponds to L.G.A. 1933, s. 5 (26 Statutes 308).

6. Deputy chairman of county council.—(1) The county council may appoint a member of the council to be deputy chairman of the council.

(2) The deputy chairman shall, unless he resigns or becomes disqualified for being a member of the council, hold office until immediately after the election of a chairman at the next annual meeting of the council, and during that time shall continue to be a member of the council notwithstanding the provisions of this Act relating to the retirement of county councillors at the end of three years.

(3) The council may pay to the deputy chairman such remuneration as it thinks reasonable.

(4) Subject to any standing orders made by the council, anything authorised or required to be done by, to or before the chairman may be done by, to or before the deputy chairman, except that he shall not be, by virtue of his office, a justice of the peace. [803]

The office of deputy chairman of a county council is unknown in administrative counties other than London. By L.G.A. 1888, s. 88 (10 Statutes 757), the London County Council were empowered to appoint "any fit person" to be deputy chairman, to hold office during the term of office of the chairman. The office was at first a paid one and the functions of the deputy chairman included many now performed by the clerk of the council.

County Aldermen

7. County aldermen.—(1) The county aldermen shall be elected by the county council from among the county councillors or persons qualified to be county councillors.

(2) The number of county aldermen shall be one-sixth of the whole number of county councillors or, if that number is not divisible by six, one-sixth of the highest number below that number which is divisible by six.

(3) If a county councillor is elected to and accepts the office of

county alderman, his office of county councillor shall thereupon become vacant.

(4) If a county alderman is elected to and accepts the office of county councillor, his office of county alderman shall thereupon become vacant.

(5) In every third year, being the year in which county councillors retire together, one half as near as may be of the whole number of county aldermen, being those who have been county aldermen for the longest time without re-election, shall retire immediately after the election of the new county aldermen. [804]

This section corresponds to L.G.A. 1933, s. 6 (26 Statutes 308), with the important distinction that in London the number of county aldermen is one-sixth, instead of one-third, of the whole number of county councillors. The origin of this distinction is in s. 40 (5) of L.G.A. 1888 (10 Statutes 719).

8. Election of county aldermen.—(1) The ordinary election of county aldermen shall be held in every third year, being the year in which county councillors retire together, at the annual meeting of the county council, and shall take place immediately after the election of the chairman of the council.

(2) A county alderman shall not, as such, vote at the election of a county alderman.

(3) Every person entitled to vote may vote for any number of persons, not exceeding the number of vacancies to be filled, by signing and delivering at the meeting to the person presiding thereat a voting paper containing the full names and places of residence and descriptions of the persons for whom he votes.

(4) The person presiding at the meeting, as soon as all the voting papers have been delivered to him, shall proceed to ascertain the result of the voting and state the number of votes given to each person.

(5) In the case of an equality of votes, the person so presiding, whether or not he voted or was entitled to vote in the first instance, shall give a casting vote.

(6) As many persons as there are vacancies to be filled, being the persons who have the greatest number of votes, shall be declared by the person so presiding to be elected.

(7) Immediately after the declaration of the persons elected, the person so presiding shall deliver the voting papers to the clerk of the county council to be kept for six months. [805]

This section in effect corresponds to L.G.A. 1933, s. 7 (26 Statutes 309), but is slightly re-arranged.

County Councillors

9. Term of office, retirement, &c.—(1) The county councillors shall be elected in manner provided by this Act.

(2) The term of office of county councillors shall be three years, and they shall retire together in every third year on the eighth day of March. [806]

This section corresponds to L.G.A. 1933, s. 8 (26 Statutes 310).

10. Day of election.—The ordinary day of election of county councillors shall be such day, not being earlier than the first day and not later than the eighth day of March, as the county council may, not later than the preceding twenty-fifth day of January, fix for that purpose, and, if no date is so fixed, shall be the eighth day of March.

[807]

This section corresponds to L.G.A. 1933, s. 9 (26 Statutes 310), which replaced the County Councils (Elections) Act, 1891, s. 1 (1), (4) (7 Statutes 541).

Electoral Divisions and Conduct of Elections

11. Electoral divisions and number of county councillors.—(1) For the purpose of the election of county councillors, the county shall be divided into electoral divisions, and there shall be a separate election of councillors for each electoral division.

(2) Every parliamentary borough within the county, or in the case of a parliamentary borough divided into divisions every division thereof, shall be an electoral division for the purpose of the election of county councillors.

(3) The number of county councillors to be elected for an electoral division shall be twice the number of persons entitled for the time being to be returned to serve in Parliament for the parliamentary borough or division thereof of which the electoral division consists. [808]

This section reproduces the combined effect of L.G.A. 1933, s. 10 (26 Statutes 310), and L.G.A. 1888, s. 40 (4) (10 Statutes 719).

12. Persons entitled to vote.—(1) The persons entitled to vote at an election of county councillors shall be the persons entitled by virtue of the provisions of the Representation of the People Acts to vote at that election.

(2) An elector at an election of county councillors shall not give more than one vote for any one candidate, and shall not give more votes in all than the total number of councillors to be elected for the electoral division in which he votes. [809]

This section corresponds to L.G.A. 1933, s. 12 (26 Statutes 312). In other counties only one vote is allowed, as there is only one councillor elected in each electoral division.

13. Polling districts.—The county council may divide an electoral division into polling districts, and may alter any polling district. [810]

Cf. L.G.A. 1933, s. 13 (26 Statutes 312).

14. Returning officer.—(1) The county council shall appoint a person to be the county returning officer, and if at an election of county councillors the office of county returning officer is vacant, or the county returning officer is for any reason unable to act, the chairman of the county council shall forthwith appoint another person to be the county returning officer at that election.

(2) At an election of county councillors the county returning officer shall be the returning officer, but he may by writing under his hand appoint a fit person to be his deputy for all or any of the purposes of the election, and any functions which a returning officer is authorised or required to discharge in relation to the election may be discharged by a deputy so appointed.

(3) A person acting as returning officer under the provisions of this section shall, as respects the election at which he is so acting, follow the instructions of the county returning officer. [811]

This section corresponds to L.G.A. 1933, s. 14 (26 Statutes 312), omitting the references to the mayor of boroughs, which are not applicable to London.

15. Conduct of election.—Subject to the other provisions of this Act, an election of county councillors shall be conducted in accordance with the rules contained in the Second Schedule to this Act. [812]

See the notes to the Second Schedule, *post*. *Cf.* L.G.A. 1933, s. 15 (26 Statutes 312—313).

16. Expenses of election.—(1) All expenditure properly incurred by a returning officer in relation to the holding of an election of county

councillors shall, in so far as it does not, in cases where the scale fixed for the purposes of this section by the county council is applicable, exceed that scale, be paid by the council.

(2) Before a poll is taken at an election of county councillors, the county council shall, at the request of the returning officer or of any person acting as returning officer, advance to him such sum, not exceeding ten pounds for every thousand electors at the election, as he may require. [813]

This section corresponds to L.G.A. 1933, s. 16 (26 Statutes 313).

METROPOLITAN BOROUGH COUNCILS

Constitution

17. Metropolitan borough councils.—(1) For every metropolitan borough there shall be a metropolitan borough council consisting of the mayor, aldermen and councillors, and the council shall have all such functions as are vested in it by this Act or otherwise.

(2) A borough council shall be a body corporate by the name—

- (a) in the case of the City of Westminster, of the mayor, aldermen and councillors of the City of Westminster ;
- (b) in the case of the Royal Borough of Kensington, of the mayor, aldermen and councillors of the Royal Borough of Kensington ;
- (c) in the case of any other borough, of the mayor, aldermen and councillors with the addition of the name of the borough ;

and shall have perpetual succession and a common seal with power to hold land for the purposes of its constitution without licence in mortmain. [814]

This section reproduces the combined effect of the London Government Act, 1899, ss. 1 (as to the incorporation of the council), 2 (1) (omitting the words repealed by the Qualification of Women (County and Borough Councils) Act, 1907 (10 Statutes 843)), and s. 27 (1) (a) as implemented by Orders in Council ; see 11 Statutes 1225, 1238.

The Mayor and Deputy Mayor

18. Qualification, term of office, &c., of mayor.—(1) The mayor of a borough shall be elected annually by the borough council from among the aldermen or councillors of the borough or persons qualified to be aldermen or councillors of the borough.

(2) The mayor shall, unless he resigns or becomes disqualified for being a member of the council, continue in office until his successor becomes entitled to act as mayor.

(3) During his term of office the mayor shall continue to be a member of the council notwithstanding the provisions of this Act relating to the retirement of borough councillors at the end of three years.

(4) The borough council may pay to the mayor such remuneration as it thinks reasonable.

(5) The mayor shall, by virtue of his office, be a justice of the peace for the county of London, but before acting as such a justice he shall take the oaths required by law to be taken by a justice of the peace for that county unless he is, at the date on which he becomes entitled to act as mayor, a justice of the peace for that county and has taken the oaths required by law to be taken to enable him to act as such a justice. [815]

This section reproduces the combined effect of the London Government Act, 1899, ss. 2 (4), 24 (1) (11 Statutes 1226, 1238), and L.G.A. 1933, s. 18 (1), (2), (3), (4), (7) (26 Statutes 313-314).

19. Election of mayor.—(1) The election of the mayor shall be the first business transacted at the annual meeting of the borough council.

(2) An outgoing borough alderman shall not, as alderman, vote at the election of the mayor.

(3) In the case of an equality of votes, the person presiding at the meeting, whether or not he voted or was entitled to vote in the first instance, shall give a casting vote. [816]

This section is based on the London Government Act, 1899, ss. 2 (4), 3 (3), (11 Statutes 1226, 1227), and L.G.A. 1933, s. 19 (26 Statutes 315).

20. Deputy mayor.—(1) A borough council may appoint a member of the council to be deputy mayor of the borough.

(2) The deputy mayor shall, unless he resigns or becomes disqualified for being a member of the council, hold office until immediately after the election of the mayor at the next annual meeting of the council, and during that time shall continue to be a member of the council notwithstanding the provisions of this Act relating to the retirement of borough councillors at the end of three years.

(3) Subject to any standing orders made by the council, anything authorised or required to be done by, to or before the mayor of borough may be done by, to or before the deputy mayor, except that he shall not be, by virtue of his office, a justice of the peace. [817]

This section in effect reproduces L.C.C.(G.P.) Act, 1929, s. 62 (11 Statutes 1425), by which statutory provision was made for the appointment of deputy mayors in metropolitan boroughs.

Borough Aldermen

21. Number, qualification, term of office and retirement of aldermen.—(1) The aldermen of a borough shall be elected by the borough council from among the councillors, or persons qualified to be councillors, of the borough.

(2) The number of aldermen of a borough shall be one-sixth of the whole number of councillors of the borough or, if that number is not divisible by six, one-sixth of the highest number below that number which is divisible by six.

(3) If a borough councillor is elected to and accepts the office of alderman of the borough, his office of councillor shall thereupon become vacant.

(4) If an alderman of a borough is elected to and accepts the office of councillor of the borough, his office of alderman shall thereupon become vacant.

(5) In every third year, being the year in which borough councillors retire together, one-half as near as may be of the whole number of aldermen of the borough, being those who have been aldermen of the borough for the longest time without re-election, shall retire immediately after the election of the new aldermen. [818]

This section reproduces the combined effect of the London Government Act, 1899, s. 2 (3), (4) (11 Statutes 1226), and L.G.A. 1933, s. 21 (1), (3) (26 Statutes 316).

22. Election of aldermen.—(1) The ordinary election of borough aldermen shall be held in every third year, being the year in which borough councillors retire together, at the annual meeting of the borough council, and shall take place immediately after the election of the mayor.

(2) A borough alderman shall not, as such, vote at the election of an alderman of the borough.

(3) Every person entitled to vote may vote for any number of

persons, not exceeding the number of vacancies to be filled, by signing and delivering at the meeting to the person presiding thereat a voting paper containing the full names and places of residence and descriptions of the persons for whom he votes.

(4) The person presiding at the meeting, as soon as all the voting papers have been delivered to him, shall proceed to ascertain the result of the voting and state the number of votes given to each person.

(5) In the case of an equality of votes, the person so presiding, whether or not he voted or was entitled to vote in the first instance, shall give a casting vote.

(6) As many persons as there are vacancies to be filled, being the persons who have the greatest number of votes, shall be declared by the person so presiding to be elected.

(7) Immediately after the declaration of the persons elected, the person so presiding shall deliver all the voting papers to the town clerk to be kept for six months. [819]

This section reproduces in effect L.G.A. 1933, s. 22 (26 Statutes 316), the day of election being of course fixed by s. 19, *ante*.

Borough Councillors

23. Number, term of office, &c., of councillors.—(1) Borough councillors shall be elected in manner provided by this Act.

(2) The total number of councillors for a borough shall not exceed sixty.

(3) The term of office of borough councillors shall be three years, and they shall retire together in every third year on the first day of November. [820]

In the scheme of the Act this section may be said to correspond to L.G.A. 1933, s. 23 (26 Statutes 316). Its provisions, however, differ, having regard to the special circumstances of London, and are based on M.M.A. 1855, s. 9 (11 Statutes 890), London Government Act, 1899, s. 2 (3), (5), (8), and S. R. & O. 1901, No. 475, by which the L.G.B. directed the simultaneous retirement of all councillors in each of the metropolitan boroughs.

24. Day of election of borough councillors.—The ordinary day of election of borough councillors shall be the first day of November. [821]

This section reproduces the London Government Act, 1899, s. 3 (2) (11 Statutes 1227).

25. Division of borough into wards, &c.—(1) For the purpose of the election of borough councillors, every borough shall be divided into wards, and there shall be a separate election of councillors for each ward.

(2) If the Secretary of State is satisfied as respects a borough that there is a *prima facie* case for an alteration of—

- (a) the number of wards of the borough ; or
- (b) the boundaries of any wards ; or
- (c) the number of councillors for the borough ; or
- (d) the apportionment of the number of councillors among the wards ;

he may cause such inquiry to be made, and such notices to be given, as he may think expedient, and if satisfied that any such alteration as aforesaid is desirable may make an order accordingly.

(3) An order made under this section altering the number of councillors for a borough may also alter the apportionment of the councillors among the wards of the borough.

(4) In fixing the number and boundaries of the wards of a borough or the apportionment of the number of councillors among the wards of a borough, the Secretary of State shall, as far as he deems it practicable, have regard to the number of local government electors for each ward and to the net annual value of the land in each ward as at the last preceding thirty-first day of March.

(5) An order made under this section may contain such incidental, consequential and supplemental provisions as appear to the Secretary of State to be necessary or proper for bringing the order into operation and giving full effect thereto.

(6) Notice of the provisions of an order made under this section be given, and copies thereof shall be supplied, in such manner as the Secretary of State may direct.

(7) Any expenses incurred by the Secretary of State in connection with an order made under this section shall be paid by the borough council. [822]

This section is based on London Government Act, 1899, s. 26 (11 Statutes 1233). The Borough Councillors (Alteration of Number) Act, 1925 (10 Statutes 876) and L.G.A. 1933, s. 24 (2) (26 Statutes 317).

26. Persons entitled to vote.—(1) The persons entitled to vote at an election of borough councillors shall be the persons entitled by virtue of the provisions of the Representation of the People Act to vote at that election.

(2) An elector at an election of borough councillors shall not give more than one vote for any one candidate, and shall not give more votes in all than the total number of councillors to be elected for the ward in which he votes. [823]

This section is based on L.G.A. 1933, s. 26 (26 Statutes 318).

27. Polling districts.—(1) Any polling district formed for the purpose of parliamentary elections or for the election of county councillors and situate wholly within a ward of a borough shall, if the polling district is a complete registration unit for which a separate part of the register of local government electors is available without alteration, be a polling district for the election of borough councillors.

(2) Subject as aforesaid, the returning officer at an election of borough councillors may divide a ward into polling districts, so, however, that every polling district shall consist of one or more complete registration units for which a separate part of the register of local government electors is available without alteration. [824]

This section is based on the Metropolitan Borough Councillors Election Rules, 1931, Article 11 (S. R. & O. 1931, No. 22).

28. Returning officer.—(1) At an election of borough councillors the town clerk of the borough shall be the returning officer.

(2) The returning officer may, by writing under his hand, appoint a fit person to be his deputy for all or any of the purposes of an election, and any functions which a returning officer is authorised or required to discharge in relation to the election may be discharged by a deputy so appointed. [825]

Cf. S. R. & O. 1931, Article 1.

29. Conduct of election.—Subject to the other provisions of this Act, an election of borough councillors shall be conducted in accordance with the rules contained in the Second Schedule to this Act. [826]

30. Expenses of election.—(1) All expenditure properly incurred by a returning officer in relation to the holding of an election of borough councillors shall, in so far as it does not, in cases where the scale fixed for the purposes of this section by the county council is applicable, exceed that scale, be paid by the borough council.

(2) Before a poll is taken at an election of borough councillors, the borough council shall, at the request of the returning officer or of any person acting as returning officer, advance to him such sum, not exceeding ten pounds for every thousand electors at the election, as he may require. [827]

Cf. the Metropolitan Borough Councillors Election Rules, 1931 (S. R. & O. 1931, No. 22), Article 25.

PART II

GENERAL PROVISIONS AS TO MEMBERS AND MEETINGS OF LOCAL AUTHORITIES AND ELECTIONS

Qualifications for Election and Office

31. Qualifications for election and holding office.—A person shall, unless disqualified by virtue of this Act or any other enactment, be qualified to be elected and to be a member of a local authority if he is of full age and a British subject, and—

- (a) is a local government elector for the area of the authority ; or
- (b) owns freehold or leasehold land within that area ; or
- (c) has during the whole of the twelve months preceding the day of election resided in that area. [828]

This section corresponds to L.G.A. 1933, s. 57 (26 Statutes 333), omitting the reference to the qualification of parish councillors.

32. Re-election.—A person ceasing to hold any office to which he is elected under this Act shall, unless he is not qualified or is disqualified, be eligible for re-election. [829]

This section reproduces L.G.A. 1933, s. 58 (26 Statutes 334).

Disqualifications for Election and Office

33. Disqualifications for election and holding office.—(1) Subject to the provisions of this section, a person shall be disqualified for being elected or being a member of a local authority if he—

- (a) holds any paid office or other place of profit (but not including the office of chairman or deputy chairman of the county council or of mayor of the borough) in the gift or disposal of the authority or of any committee thereof ; or
- (b) is a person who has been adjudged bankrupt, or made a composition or arrangement with his creditors ; or
- (c) has within twelve months before the day of election or since his election received poor relief ; or
- (d) has within five years before the day of election or since his election been surcharged to an amount exceeding five hundred pounds by a district auditor ; or
- (e) is disqualified for being elected or for being a member of the authority under any enactment relating to corrupt or illegal practices ; or
- (f) has within five years before the day of election or since his election been convicted in the United Kingdom, the Channel

Islands or the Isle of Man of any offence and ordered to be imprisoned for a period of not less than three months without the option of a fine.

(2) Notwithstanding anything in subsection (1) of this section—

- (a) a person shall not be disqualified for being elected or being a member of the county council by reason only of his holding the office of county returning officer for the county, unless he has, directly or indirectly, by himself or his partner, received any profit or remuneration in respect of that office :
- (b) a person who is appointed or nominated by the county council either as its representative on, or as a member of, any authority, board or body, and as such representative or member receives any remuneration in respect of his services, shall not be deemed to hold any paid office or other place of profit in the gift or disposal of the council if he pays to the council the amount so received, less any allowance in respect of travelling or subsistence expenses :
- (c) the disqualification attaching to a person by reason of his having been adjudged bankrupt shall cease—
 - (i) on the date of the annulment of the bankruptcy. in any case where it is annulled either on the ground that he ought not to have been adjudged bankrupt, or that his debts have been paid in full ; or
 - (ii) on the date of his discharge, in any case where he is discharged with a certificate that the bankruptcy was caused by misfortune without any misconduct on his part ; or
 - (iii) in any other case, on the expiration of five years from the date of his discharge :
- (d) the disqualification attaching to a person by reason of his having made a composition or arrangement with his creditors shall cease—
 - (i) if he pays his debts in full, on the date on which the payment is completed ; or
 - (ii) in any other case, on the expiration of five years from the date on which the terms of the deed of composition or arrangement are fulfilled :
- (e) a person shall not be deemed to have received poor relief within the meaning of paragraph (c) of subsection (1) of this section by reason only that he, or a member of his family, has received medical or surgical treatment, or been an inmate of an institution for the purpose of receiving such treatment :
- (f) for the purposes of paragraphs (d) and (e) of subsection (1) of this section, the person concerned shall be deemed to have been surcharged or convicted, as the case may be, as on the ordinary date on which the period allowed for making an appeal or application with respect to the surcharge or conviction expires or, if such an appeal or application is made, as on the date on which the appeal or application is finally disposed of or abandoned or fails by reason of the non-prosecution thereof.

(3) A coroner for the county, or the deputy of such a coroner, shall be disqualified for being elected or being a member of the county council.

(4) A teacher in a school maintained but not provided by the county council as the local education authority shall be in the same position as respects disqualification for being elected or being a member of the council as a teacher in a school provided by the council. [830]

This section in effect corresponds to L.G.A. 1933, s. 59 (26 Statutes 334-337), omitting provisions which are not applicable to London. Sub-s. 2 (b) reproduces L.C.C.(G.P.) Act, 1926, s. 43 (11 Statutes 1384) and is a provision which has applied to members of the L.C.C. since 1926, but does not form part of the code applicable to local authorities generally.

34. Additional disqualifications for election and holding office as member of county council.—(1) Subject to the provisions of this section, a person shall be disqualified for being elected or being a member of the county council—

- (a) if he is a paid officer engaged in the administration of the laws relating to the relief of the poor, or having been such a paid officer, has been dismissed from his office within five years before the day of election under the provisions of any enactment relating to the relief of the poor; or
- (b) so long as he has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by or on behalf of the council.

(2) For the purposes of paragraph (b) of subsection (1) of this section, a person shall not be deemed to have a share or interest in any contract or employment with, by or on behalf of the council by reason only that he has a share or interest—

- (a) in the sale, lease or purchase of any land, or in any agreement for such sale, lease or purchase;
- (b) in an agreement for the loan of money, or in any security for the payment of money only;
- (c) in a newspaper in which any advertisement relating to the affairs of the council is inserted;
- (d) in a railway company, or in any company incorporated by Act of Parliament or by Royal Charter or under the Companies Acts;
- (e) in a society registered under the Industrial and Provident Societies Acts, 1893 to 1928;
- (f) in an advance made under the Small Dwellings Acquisition Acts, 1899 to 1923;
- (g) as the occupier of a house at a rental from the council under the Housing Acts, 1936 and 1938;
- (h) in the case of a medical practitioner, in a payment made to him under the provisions of the Public Health (London) Act, 1936, which relate to the notification of infectious disease, or in any fees paid to him under section fourteen of the Midwives Act, 1918. [831]

This section reproduces a number of special provisions which have been scattered about in the Municipal Corporations Acts, the Housing Acts, the Public Health (London) Act, 1936, and as regards sub-s. 1 (a) in s. 59 (1) (h) of L.G.A. 1933 (2 Statutes 334). The retention of the disqualification for membership in the case of interest in contracts is remarkable in view of the alteration in this aspect of the law effected by L.G.A. 1933, s. 76 (*ibid.* 346), which replaced this disqualification by a disability for voting in such circumstances in the case of extra-metropolitan authorities.

35. Validity of acts done by unqualified person.—The acts and proceedings of a person elected to an office under this Act and acting

in that office shall, notwithstanding his want of qualification or his disqualification, be as valid and effectual as if he had been qualified or not disqualified. [832]

This section corresponds to L.G.A. 1933, s. 60 (26 Statutes 337).

Acceptance of Office

36. Declaration of acceptance of office.—(1) A person elected to any of the following offices, that is to say, to the office of—

(a) chairman of the county council, county alderman, or county councillor; or

(b) mayor, alderman, or councillor of a borough;

shall not, unless he has made a declaration of acceptance of office in a form prescribed by the Secretary of State, and the declaration has within two months after the day of election been delivered to the clerk of the authority, act in the office except for the purpose of taking such a declaration.

(2) If the declaration aforesaid is not made and delivered to the clerk of the authority within the appointed time, the office of the person elected shall, at the expiration of that time, become vacant.

(3) The declaration shall be made before—

(a) two members of the local authority, to which the declarant is elected; or

(b) the clerk of the authority; or

(c) a justice of the peace or magistrate at any place within His Majesty's dominions; or

(d) a commissioner appointed to administer oaths in the Supreme Court; or

(e) a British consular officer.

(4) A person before whom a declaration is authorised to be made under this section may take the declaration. [833]

This section corresponds to L.G.A. 1933, s. 61 (26 Statutes 337) omitting the reference to parish councillors.

Vacation of Office

37. Resignation.—(1) A person elected to any such office as is mentioned in subsection (1) of the last preceding section may at any time resign his office by writing signed by him (in this Act referred to as the "notice of resignation") and delivered to the clerk of the authority.

(2) The resignation shall take effect on the receipt by the clerk of the authority of the notice of resignation. [834]

This section corresponds to L.G.A. 1933, s. 62 (26 Statutes 338). Members may now resign without paying a fine.

38. Vacation of office by failure to attend meetings, &c.—If a member of a local authority fails throughout a period of six consecutive months to attend any meeting of that authority he shall, unless the failure was due to some reason approved by the local authority, cease to be a member of the authority:

Provided that—

(1) attendance at a meeting of any committee or sub-committee of the local authority as a member of that committee or sub-committee shall be deemed, for the purposes of this

section, to be attendance at a meeting of the local authority ;

- (2) a member of any branch of His Majesty's naval, military or air forces when employed during war or any emergency on any naval, military or air force service, and a person whose employment in the service of His Majesty in connection with war or any emergency is such as, in the opinion of the Minister, to entitle him to relief from disqualification on account of absence, shall not cease to be a member of a local authority by reason only of failure to attend meetings of the local authority if the failure is due to that employment. [835]

This section corresponds to L.G.A. 1933, s. 63 (26 Statutes 338-339).

39. Declaration of vacancy in office in certain cases.—If a member of a local authority—

- (a) ceases to be qualified to be a member of the authority ; or
- (b) becomes disqualified for being a member of the authority by reason of any matter other than a surcharge, a conviction, or a breach of any enactment relating to corrupt or illegal practices ; or
- (c) ceases to be a member of the authority by reason of failure to attend meetings of the authority,

the local authority shall, except in any case in which a declaration has been made by the High Court under the provisions of section fifty-eight of this Act (which relate to proceedings in respect of qualification), forthwith declare his office to be vacant and signify the vacancy by notice signed by the clerk of the authority and affixed to the offices of the local authority. [836]

This section corresponds to L.G.A. 1933, s. 64 (26 Statutes 339).

Casual Vacancies

40. Date of casual vacancies.—For the purpose of filling a casual vacancy in any office for which an election is held under this Act, the vacancy shall be deemed to have occurred—

- (1) in the case of non-acceptance of office by any person who is required to make and deliver a declaration of acceptance of office, on the expiration of the period appointed under this Part of this Act for the delivery of the declaration :
- (2) in the case of resignation, on the receipt of the notice of resignation by the clerk of the authority to whom it is required to be delivered :
- (3) in the case of death, on the date of death :
- (4) in the case of a disqualification by reason of a surcharge or conviction, on the expiration of the ordinary period allowed for making an appeal or application with respect to the surcharge or conviction or, if an appeal or application is made, on the date on which that appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution thereof :
- (5) in the case of an election being declared void on an election petition, on the date on which the report or certificate of the election court is made or given :

- (6) in the case of a person ceasing to be qualified to be a member of a local authority or becoming disqualified for being such a member for any reason other than any of those mentioned in the foregoing paragraphs of this section, or ceasing to be a member of a local authority by reason of failure to attend meetings of the authority, on the date on which his office is declared to have been vacated either by the High Court or by the local authority, as the case may be :
- (7) in the case of a county councillor accepting the office of county alderman, or of a borough councillor accepting the office of alderman of the borough, on the date on which he accepts that office :
- (8) in the case of a county alderman accepting the office of county councillor, or of a borough alderman accepting the office of councillor of the borough, on the date on which he accepts that office. [837]

Sub-ss. (1)–(7) of this section are based on L.G.A. 1933, s. 65 (26 Statutes 340). Sub-s. (8) appears to be new.

41. Filling of casual vacancy in case of chairman, mayor or alderman.—(1) On a casual vacancy occurring in the office of chairman of the county council or county alderman, or of mayor or alderman of a borough, an election to fill the vacancy shall be held not later than the next ordinary meeting of the council concerned held after the expiration of a period of fourteen days from the date on which the vacancy occurs, and shall be conducted in the same manner as an ordinary election.

(2) Where the office vacant is that of chairman of the county council or of mayor of a borough, a meeting of the council for the election may be convened by the clerk of the authority. [838]

This section reproduces L.G.A. 1933, s. 66, sub-ss. (1), (2) (26 Statutes 341). Sub-s. (3) of that section is not applicable to London.

42. Filling of casual vacancies in case of councillors.—(1) Subject to the provisions of this section, on a casual vacancy occurring in the office of county councillor or borough councillor, an election to fill the vacancy shall be held—

- (a) in a case in which the High Court or the local authority has declared the office to be vacant, within thirty days after the date of the declaration ;
- (b) in any other case, within thirty days after notice in writing of the vacancy has been given to the clerk of the authority by two local government electors for the county or borough ;

and shall be conducted in the same manner as an ordinary election.

(2) The day of election to fill a casual vacancy shall be fixed by the returning officer.

(3) Where a casual vacancy occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, an election under this section shall not be held to fill the vacancy, but the vacancy shall be filled at the next ordinary election :

Provided that if on a vacancy, or a number of simultaneous vacancies, so occurring the total number of unfilled vacancies in the membership of a local authority exceeds one-third of the whole number of members of the authority, this subsection shall not apply to that vacancy or those vacancies. [839]

This section reproduces s. 67, ss. (1)–(3) of L.G.A. 1933 (26 Statutes 341–342).

43. Term of office of persons filling casual vacancies.—A person elected under this Act to fill a casual vacancy shall hold office until the date on which the person in whose place he is elected would in ordinary course have retired, and shall then retire. [840]

This section corresponds to L.G.A. 1933, s. 68 (26 Statutes 343).

Miscellaneous Provisions as to Elections

44. Right of certain candidates to the use of schoolrooms at elections.

—(1) A candidate at an election of councillors shall, on giving reasonable notice, be entitled, for the purpose of holding public meetings in furtherance of his candidature, to use, without payment and at all reasonable times during the period commencing on the day on which notice of the election is given and ending on the day preceding the day of election, a suitable room in the schoolhouse of any public elementary school situate in the electoral area for which he is a candidate :

Provided that nothing in this section shall authorise the use of a room used as part of a private dwelling-house, or any interference with the hours during which the schoolhouse is used for educational purposes.

(2) If by reason of the use of a room under this section any expense is incurred by the persons having control over the room, or any damage is done to the schoolhouse or to the furniture, fittings or apparatus therein, the expense or cost of making good the damage shall be defrayed by the person by whom, or on whose behalf, the meeting was convened.

(3) Any question arising under this section as to what is reasonable or suitable shall be determined by the Board of Education. [841]

This section reproduces L.G.A. 1933, s. 69 (26 Statutes 343).

45. Non-compliance with rules as to nomination, &c.—(1) An election held under this Act shall not be invalidated by non-compliance with the rules contained in the Second Schedule to this Act, or any mistake in the use of the prescribed forms, if it appears to the court having cognisance of the case that the election was conducted in accordance with the principles laid down in this Act and that the non-compliance or mistake did not affect the result of the election.

(2) No misnomer or inaccurate description of any person or place named in any register of electors, electors list, nomination paper, ballot paper, voting paper, or notice, shall affect the full operation of that document with respect to that person or place, in any case where the description of the person or place is such as to be commonly understood.

[842]

This section corresponds to L.G.A. 1933, s. 70 (26 Statutes 343).

46. Application of Municipal Elections (Corrupt and Illegal Practices) Acts, 1884 and 1911, &c.—(1) An election held under this Act shall be deemed to be a municipal election within the meaning of the Municipal Elections (Corrupt and Illegal Practices) Acts, 1884 and 1911, and Part IV of the Municipal Corporations Act, 1882, except sections eighty-six and one hundred and four of that Act, shall apply accordingly :

Provided that—

(a) the provisions referred to in section thirty-seven of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, shall not apply in the case of an election of borough councillors under this Act ;

- (b) references in the said Acts to the town clerk shall be construed, in their application to an election to the office of chairman of the county council, county alderman or county councillor, as references to the clerk of the county council ;
- (c) references in the said Acts to the borough fund or borough rate shall be construed, in their application to an election to the office of chairman of the county council, county alderman or county councillor as references to the county fund, and in their application to an election to the office of mayor, alderman or councillor of a borough, to the general rate fund of the borough.

(2) An election held under this Act or under any enactment repealed by this Act, unless questioned by election petition within the period fixed by law for those proceedings, shall be deemed to have been to all intents a good and valid election.

(3) An election held under this Act, or under any enactment repealed by this Act, shall not be liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election. [843]

Sub-ss. (2), (3) of this section corresponds to L.G.A. 1933, s. 71 (26 Statutes 344).

47. Omission to hold election, or election void.—(1) If at an election of councillors—

- (a) the poll is countermanded by reason of the death of a candidate before the commencement of the poll ; or
- (b) the number of persons who are or remain validly nominated is insufficient to fill the vacancies in respect of which the election is held and, in the case of an ordinary election, the number of retiring councillors is insufficient to fill the vacancies,

then, in the case of an election of county councillors, the county returning officer, and in the case of an election of borough councillors the returning officer, shall order an election to be held on such day as he may appoint to fill any vacancy which remains unfilled.

(2) If for any other reason an election under this Act is not held on the appointed day or within the appointed time, or fails either wholly or in part or becomes void, the High Court may order an election to be held on a day appointed by the court.

(3) Where an order is made under this section for the holding of an election, the provisions of this Act relating to the notice to be given of an election and the manner in which an election is to be conducted shall apply in relation to the new election as they applied or would have applied in relation to the election which was not duly held or failed or became void :

Provided that no fresh nomination shall be necessary in the case of a candidate who remained validly nominated for the election which was not duly held or failed or became void.

(4) The High Court may order that the costs of any person in proceedings under subsection (2) of this section shall be paid by the local authority concerned. [844]

This section corresponds to L.G.A. 1933, s. 72 (26 Statutes 344).

48. Notices as to elections.—Any notice required to be given in connection with an election held under this Act may relate to more than one electoral area. [845]

Cf. L.G.A. 1933, s. 73 (26 Statutes 345).

49. Provisions as to ballot boxes, &c.—(1) Any ballot boxes, fittings and compartments provided for parliamentary elections out of moneys provided by Parliament may, on request, be lent to the returning officer at an election held under this Act on such terms and conditions as the Treasury may determine.

(2) Any ballot boxes, fittings and compartments provided by or belonging to any authority shall, on request, and if not required for immediate use by that authority, be lent to the returning officer at an election held under this Act on such terms and conditions as may be agreed. [846]

Cf. L.G.A. 1933, s. 74 (26 Statutes 345).

Meetings and Proceedings

50. Meetings and proceedings.—(1) The provisions of Parts I and III of the Third Schedule to this Act shall have effect as respects the meetings and proceedings of the county council.

(2) A county councillor elected for the electoral division comprising the City of London shall not at any time act or vote at a meeting of the county council on any matter involving expenditure in respect of which the City of London is not, at that time, liable to be charged equally with other parts of the county :

Provided that nothing in this subsection shall prevent such a councillor from presiding over a meeting of the county council at which any such matter arises, but he shall not vote thereon otherwise than in the exercise of his power to give a casting vote.

(3) The provisions of Parts II and III of the Third Schedule to this Act shall have effect as respects the meetings and proceedings of a borough council. [847]

This section is based on L.G.A. 1933, s. 75 (26 Statutes 346). Sub-s. (2) is based on L.G.A. 1888, s. 41 (8), with a new proviso.

51. Disability of members of county council for voting in certain cases.—(1) A member of the county council shall not vote on, or take part in the discussion of, any matter before the council in which he has, directly or indirectly, by himself or his partner, any pecuniary interest.

(2) A member of the county council shall not vote on any resolution or question which is proposed or arises under the Housing Acts, 1936 and 1938, if it relates to premises in which he is beneficially interested, and if any person votes in contravention of the provisions of this subsection, he shall in respect of each offence be liable on summary conviction to a fine not exceeding fifty pounds, but the fact of his having voted shall not invalidate the resolution or proceeding of the county council. [848]

Sub-s. (1) of this section is substantially in the old form of s. 22 (3) of the Municipal Corporations Act, 1882 (10 Statutes 584). Sub-s. (2), as appears on the face of it, is adopted from the Housing Acts. See s. 34, *ante*, as to disqualification for membership of the county council in case of an interest in a contract.

52. Disability of members of borough council for voting in certain cases.—(1) If a member of a borough council has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter,

and is present at a meeting of the council at which the contract or other matter is the subject of consideration, he shall at the meeting, as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or other matter :

Provided that this section shall not apply to an interest in a contract or other matter which a member may have as a ratepayer or inhabitant of the borough, or as an ordinary consumer of electricity, or to an interest in any matter relating to the terms on which the right to participate in any service, including the supply of goods, is offered to the public.

(2) For the purposes of this section, a person shall (subject as hereinafter in this subsection provided) be treated as having indirectly a pecuniary interest in a contract or other matter if—

- (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made, or which has a direct pecuniary interest in the other matter under consideration ; or
- (b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made, or who has a direct pecuniary interest in the other matter under consideration :

Provided that—

- (i) this subsection shall not apply to membership of, or employment under, any public body ;
- (ii) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares or stock of that company or other body.

(3) In the case of married persons living together, the interest of one spouse shall, if known to the other, be deemed for the purposes of this section to be also an interest of that other spouse.

(4) A general notice given in writing to the town clerk by a member of a borough council to the effect that he or his spouse is a member, or in the employment of, a specified company or other body, or that he or his spouse is a partner or in the employment of a specified person, shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company, or other body, or to that person which may be the subject of consideration after the date of the notice.

(5) The town clerk shall record in a book to be kept for the purpose particulars of any disclosure made under subsection (1) of this section, and of any notice given under subsection (4) thereof, and the book shall be open at all reasonable hours to the inspection of any member of the borough council.

(6) If any person fails to comply with the provisions of subsection (1) of this section, he shall for each offence be liable on summary conviction to a fine not exceeding fifty pounds, unless he proves that he did not know that a contract, proposed contract, or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

(7) A prosecution for an offence under this section shall not be instituted except by or on behalf of the Director of Public Prosecutions.

(8) The Minister may, subject to such conditions as he may think fit to impose, remove any disability imposed by this section in any case in which the number of members of a borough council so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the interests of the inhabitants of the borough that the disability should be removed.

(9) A borough council may by standing orders provide for the exclusion of a member of the council from a meeting of the council whilst any contract, proposed contract or other matter in which he has such an interest as aforesaid is under consideration. [349]

This section, which applies to metropolitan borough councils and not to the county council is, *mutatis mutandis*, identical with L.G.A. 1933, s. 76 (26 Statutes 346). As to members of the county council, see s. 51, *ante*, and see also s. 34, *ante*, as to disqualification for membership of the county council.

Offences

53. Failure of returning officers, &c., to conduct election.—If a person whose duty it is to act as returning officer at, or to take part in the conduct of, an election under this Act neglects or refuses to conduct the election, or to declare the result of, or to take part in the conduct of, the election, as required by this Act, he shall in respect of each offence be liable on summary conviction to a fine not exceeding one hundred pounds :

Provided that a person shall not be liable to proceedings under this section unless the information for the offence is laid within three months from the date of the commission thereof. [850]

This section is based on L.G.A. 1933, s. 79 (26 Statutes 349).

54. Offences in relation to nomination papers.—If at an election under this Act a person fraudulently defaces or fraudulently attempts to deface, or fraudulently destroys or fraudulently attempts to destroy, any nomination paper he shall in respect of each offence be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding twenty pounds, or to both such imprisonment and fine. [851]

This section is based on L.G.A. 1933, s. 80 (26 Statutes 349).

55. Offences in relation to ballot papers and ballot boxes.—If at an election under this Act a person—

- (1) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper ; or
 - (2) without due authority supplies a ballot paper to any person ;
or
 - (3) fraudulently puts into a ballot box any paper other than the ballot paper which he is authorised by law to put therein ;
or
 - (4) fraudulently takes out of the polling station any ballot paper ;
or
 - (5) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election ; or
 - (6) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts ;
- he shall in respect of each offence—
- (a) if he is a returning officer or an officer appointed to assist in

taking the poll or counting the votes, be liable, on conviction on indictment, to imprisonment for a term not exceeding two years ;

- (b) if he is not such an officer as aforesaid, be liable, on conviction on indictment or on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding twenty pounds, or to both such imprisonment and fine.

[852]

This section corresponds to L.G.A. 1933, s. 81 (26 Statutes 349).

56. Offence of personation.—(1) If at an election under this Act a person—

- (a) applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead or of a fictitious person ; or
(b) having voted once at the election applies again for a ballot paper in his own name ;

he shall be guilty of the offence of personation, and shall in respect of each offence be liable—

- (i) on conviction on indictment, to imprisonment for a term not exceeding two years ;
(ii) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding twenty pounds, or to both such imprisonment and fine.

(2) It shall be the duty of a returning officer at an election under this Act to institute proceedings against any person whom he may have reasonable cause to believe to have been guilty of the offence of personation at that election.

(3) A person charged with the offence of personation under this section shall not be convicted or committed for trial except on the evidence of not less than two credible witnesses. [853]

This section corresponds to L.G.A. 1933, s. 82 (26 Statutes 350).

For cases as to personation, see the English and Empire Digest, Vol. 20, pp. 97, 98.

57. Costs of returning officer in legal proceedings.—All costs properly incurred by a returning officer in the institution of legal proceedings arising out of an election under this Act shall be deemed to form part of the expenses properly incurred by him in relation to the holding of the election. [854]

This section corresponds to L.G.A. 1933, s. 83 (26 Statutes 350), as to the expenses of elections. See, in the case of the county council, s. 16, *ante*, and in the case of the metropolitan borough councils, s. 30, *ante*.

58. Proceedings in respect of qualification.—(1) Proceedings may be instituted, either in the High Court or in a court of summary jurisdiction, against any person acting as a member of a local authority, or as mayor of a borough, on the ground of his being disqualified within the meaning of this section for so acting, and proceedings may be instituted in the High Court on the like ground against any person claiming to be entitled so to act :

Provided that proceedings under this section on the ground of a person acting as aforesaid shall not be instituted after the expiration of six months from the date on which he so acted.

- (2) If in proceedings under this section it is proved that the defendant

acted as a member of a local authority, or as mayor of a borough, while disqualified for so acting, then—

(a) in proceedings in the High Court, the court may—

(i) make a declaration to the effect that the defendant acted as aforesaid while disqualified for so acting and declare that the office in which he acted is vacant ;

(ii) grant an injunction restraining him from so acting ;

(iii) order that he shall forfeit to His Majesty such sum as the court thinks fit, not exceeding fifty pounds for each occasion on which he so acted while disqualified ;

(b) in proceedings in a court of summary jurisdiction, the court may, subject to the provisions of this section, impose on the defendant a fine not exceeding fifty pounds for each occasion on which he so acted while disqualified.

(3) Where proceedings are instituted under this section in a court of summary jurisdiction, then—

(a) the court shall, if it is satisfied that the matter in question would be more properly dealt with in the High Court, order the discontinuance of proceedings before itself ;

(b) if, on application made to the High Court by the defendant within fourteen days after service of the summons upon him, the High Court is satisfied as aforesaid, the High Court may make an order, which shall not be subject to any appeal, requiring the court of summary jurisdiction to order the discontinuance of proceedings before itself.

(4) If in proceedings under this section in the High Court it is proved that the defendant claims to be entitled to act as a member of a local authority, or as mayor of a borough, and is disqualified for so acting, the court may make a declaration to the effect that the defendant claims to be entitled so to act and is disqualified for so acting and declare that the office in which the defendant claims to be entitled to act is vacant, and grant an injunction restraining him from so acting.

(5) No proceedings shall be instituted under this section by any person other than a local government elector for the county or borough, as the case may be.

(6) Except as provided by this section, no proceedings shall be instituted against a person on the ground that he has, while disqualified for acting as a member of a local authority or as mayor of a borough, so acted or claimed to be entitled so to act.

(7) For the purposes of this section, a person shall be deemed to be disqualified for acting as a member of a local authority or as mayor of a borough—

(a) if he is not qualified to be, or is disqualified for being, a member of that authority, or for holding the said office ; or

(b) if by reason of failure to make and deliver the declaration of acceptance of office within the period required, or by reason of resignation or failure to attend meetings of the authority, he has ceased to be a member of the authority or to hold the said office. [855]

This section corresponds to L.G.A. 1933, s. 84 (26 Statutes 350—352). It was new in that Act. Note that the section only deals with disqualification occurring after an election. A disqualification existing at the date of election is still a matter for an election petition.

PART III

COMMITTEES

General Power to appoint Committees

59. Appointment of committees.—(1) A local authority may appoint a committee for any such general or special purpose as in the opinion of the authority would be better regulated and managed by means of a committee.

(2) The number of the members of a committee appointed under this section and their term of office shall be such as may from time to time be fixed by the appointing authority.

(3) A committee appointed under this section by the county council may include persons who are not members of the council, so, however, that at least two-thirds of the members of the committee shall be members of the council.

(4) Subject, in the case of the county council, to the provisions of any standing orders made by the council under the provisions of sub-section (3) of section sixty-eight of this Act, every member of a committee appointed under this section, or of a sub-committee of any such committee, who at the time of his appointment as such a member was a member of the appointing authority shall, on ceasing to be a member of that authority, also cease to be a member of the committee or sub-committee :

Provided that a person who has ceased to be a member of a local authority by retirement shall not, for the purposes of this subsection, be deemed to have so ceased if he has been re-elected a member thereof not later than the day of his retirement.

(5) Nothing in this section shall authorise the appointment at any time by a local authority of a committee for any purpose for which the authority is required to appoint a committee by any other enactment then in force, including any enactment in this Act. [856]

This section reproduces L.G.A. 1933, s. 85 (26 Statutes 352), omitting in sub-s. (1) the general power of delegation, which subject is dealt with in this Act in s. 67, *post*.

Provisions relating to particular Committees

60. Finance committee.—(1) The county council and every borough council shall appoint a finance committee consisting of members of the council for regulating and controlling the finance of the county or borough, as the case may be.

(2) The number of members of the finance committee and their term of office shall be such as may be fixed from time to time by the appointing council.

(3) Subject, in the case of the county council, to the provisions of any enactment relating to the standing joint committee, no costs, debt or liability exceeding fifty pounds shall be incurred by a local authority except on a resolution of the authority passed on an estimate submitted by the finance committee. [857]

This section is based on L.G.A. 1933, s. 86 (26 Statutes 353), which was extended to London, as to the county council, by L.C.C.(G.P.) Act, 1934, s. 20 (27 Statutes 412), and to borough councils by s. 28 (1) of the same Act (*ibid.* 417).

61. Power to refer certain educational matters to other committees.—

(1) Subject to the provisions of this section, the county council may

refer to any committee appointed by the council any matter arising out of, and incidental to,—

- (a) the functions of the council under the Education Acts, 1921 to 1937; or
- (b) the functions of the council under any enactment, scheme or order, being functions conferred or imposed upon the council expressly as the local education authority or as a council having powers under the Education Acts, 1921 to 1937;

which, by reason that it relates also to a general service of the council, ought, in the opinion of the council, to be so referred, and the provisions of paragraph (a) of subsection (2) of section four of the Education Act, 1921, shall not apply with reference to any matter which is so referred or to the discharge of any of the said functions so far as they relate to that matter.

(2) Before deciding on a proposal for a reference under this section, the county council shall receive and consider a report of its education committee on the proposals. [858]

This section in effect reproduces L.C.C.(G.P.) Act, 1934, s. 21 (1) (27 Statutes 413).

62. Mental hospitals committee of county council.—(1) The county council shall appoint a committee for the purposes of the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1927.

(2) Subject to the provisions of this section, the committee so appointed (in this Act referred to as “the mental hospitals committee”) shall consist of such persons to be appointed by the county council, and being either members of the council or persons having special knowledge and experience with respect to the care, control and treatment of persons of unsound mind and of the mentally defective, as the council may determine.

(3) The majority of the members of the mental hospitals committee must be members of the county council, and some of the members must be women.

(4) The mental hospitals committee shall, for the purposes of the Mental Deficiency Acts, 1913 to 1927, be deemed to be a committee for the care of the mentally defective.

(5) Except as otherwise provided in this section, all matters relating to the discharge by the county council of its functions under the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1927, shall stand referred to the mental hospitals committee, and the council, unless in its opinion the matter is urgent, shall, before discharging any of those functions, receive and consider a report of the mental hospitals committee with respect to the matter in question.

(6) Subject to the provisions of this section, the county council may refer to any committee appointed by the council any matter arising out of, and incidental to, its functions aforesaid which, by reason that it relates also to a general service of the council, ought, in the opinion of the council, to be so referred, and the provisions of the last preceding subsection shall not apply with reference to any matter which is so referred or to the discharge of any of the said functions so far as they relate to that matter.

(7) Before deciding on a proposal for a reference under the provisions of the last preceding subsection, the county council shall receive and consider a report of the mental hospitals committee on the proposal.

(8) A sub-committee of the mental hospitals committee may

subject to any directions of the county council, consist wholly or partly of members of the committee, as the committee thinks fit.

(9) The mental hospitals committee may delegate to a sub-committee appointed by it such of the functions delegated to it under this Part of this Act as the committee, with the approval of the county council, thinks fit. [859]

This section in effect reproduces L.C.C.(G.P.) Act, 1934, s. 22 (1), (2), (4), (5), (6), (9) (27 Statutes 413—414).

63. Committees for purposes of blind persons, &c.—(1) If the county council appoints a committee exclusively for the purpose of discharging its functions relating to the promotion of the welfare of the blind, and the committee includes persons who are not members of the council, one at least of those persons shall be a person specially qualified by training or experience in matters relating to the welfare of the blind.

(2) A sub-committee of any committee appointed by the county council for—

- (a) dealing with matters relating to public health; or
- (b) dealing exclusively with matters relating to the promotion of the welfare of the blind;

may, subject to any directions of the council, include persons who are not members of the committee.

(3) The functions of the county council under the Diseases of Animals Acts, 1894 to 1937, shall stand referred to such committee or committees of the council as the council may determine.

(4) A committee appointed by a borough council for any of the purposes of the Public Libraries Acts, 1892 to 1919, may include persons who are not members of the council.

(5) A committee appointed by a borough council for any of the purposes of the Housing Acts, 1936 and 1938, may include persons who are not members of the council, so however that a majority of the members of the committee shall be members of the council. [860]

This section is based on L.C.C.(G.P.) Act, 1934, ss. 19 (1), (5), 27 (1) (27 Statutes 411, 412, 416).

General provisions relating to Committees

64. Disqualification for membership of committees.—A person who is disqualified for being elected or being a member of a local authority shall be disqualified for being a member of a committee or sub-committee of that authority, whether the committee or sub-committee is appointed under this Part of this Act or under any other enactment, and the provisions in Part II of this Act relating to proceedings in respect of qualification shall apply as respects any person so disqualified with the substitution therein of references to a member of the committee or sub-committee for references to a member of the local authority:

Provided that a person shall not be disqualified for being a member of the education committee or of the mental hospitals committee of the county council by reason only that he is a teacher or holds any other office in a school or college which is aided, provided or maintained by the council. [861]

This section is based on L.G.A. 1933, s. 94 (26 Statutes 356).

65. Disability for acting as member of committee on account of pecuniary interest.—The provisions of sections fifty-one and fifty-two of this Act, relating to the disability of members of a local authority

for voting on, or taking part in the discussion of, certain matters, shall apply in respect of members of a committee or sub-committee of a local authority, whether the committee or sub-committee is appointed under this Part of this Act or under any other enactment, as those provisions apply in respect of members of the authority, with the substitution thereof of references to the committee or sub-committee for references to the authority :

Provided that the right of persons who are members of a committee or sub-committee of a borough council but not members of the council to inspect the book to be kept under subsection (5) of section fifty-two shall be limited to an inspection of the entries in the book relating to members of that committee or sub-committee. [862]

This section in effect reproduces L.C.C.(G.P.) Act, 1934, ss. 26, 28 (4) (27 Statutes 416, 417).

The word "thereof" is probably a misprint for "therein."

66. References to statutory committees.—(1) Subject to the provisions of this section, a local authority may refer to any committee which the authority is under any enactment (including any enactment in this Act) required to appoint any matter, not being a matter which under any enactment (including any enactment in this Act) is to stand referred to that committee or to any other committee of the authority, which the authority thinks would be better regulated and managed by means of the first-mentioned committee.

(2) This section shall not apply—

(a) to the committees appointed by the county council under section two hundred and eighty-six of the Public Health (London) Act, 1936, or under section ten of the Old Age Pensions Act, 1936, respectively ; or

(b) to an assessment committee appointed by a borough council under paragraph (h) of section eighteen of the Local Government Act, 1929. [863]

L.C.C.(G.P.) Act, 1934, contained a number of provisions of this nature, applicable to named committees, which are now replaced by this section. See, *e.g.*, ss. 21 (2), 22 (7), 23 (1), (3), 28 (2) of that Act (27 Statutes 413, 414, 415, 417).

67. Delegation to committees.—(1) A local authority may, with or without restrictions or conditions, as it thinks fit, delegate to a committee appointed by the authority, whether under this Part of this Act or under any other enactment, any functions relating to a matter which under or in pursuance of any enactment, including any enactment in this Act, stands referred or is referred to that committee :

Provided that a local authority shall not delegate to a committee a power of levying, or issuing a precept for, a rate or of borrowing money, or, in the case of the county council, any power exercisable by the council under subsection (1) of section two of the Local Authorities (Financial Provisions) Act, 1921.

(2) A committee appointed by a borough council shall not incur any expenditure in excess of the amount allowed by the council. [864]

This section confers on local authorities for the purpose of this Act the general power of delegation which was omitted from s. 59, *ante*. Metropolitan authorities had similar powers under L.C.C.(G.P.) Act, 1934 ; see ss. 19—24, 27, 28 of that Act (27 Statutes 411—417).

68. Standing orders, &c.—(1) Subject to the provisions of any enactment (including any enactment in this Act) relating to a committee

which the local authority is required to appoint, a local authority may make, vary and revoke standing orders respecting—

- (a) the matters to be referred, and the functions to be delegated, by the authority to a committee under this Part of this Act ; and
- (b) the place of meeting, quorum and proceedings of any committee of the authority.

(2) Except as otherwise provided by any such standing orders, and subject to any such provisions as are mentioned in the preceding subsection, the place of meeting, quorum and proceedings of a committee shall be such as the committee may determine.

(3) Without prejudice to the provisions of subsection (1) of this section, the county council may make, vary and revoke standing orders empowering—

- (a) any committee appointed by the council, as constituted immediately before the ordinary day of retirement of county councillors ; or
- (b) any sub-committee* of such a committee as so constituted ; or
- (c) such members of the committee or sub-committee as shall be able and willing to act as such committee or sub-committee ;

to continue on and after that day, until the appointment of the successors of, or the termination of the appointment of, the committee or sub-committee, as the case may be, to discharge as such committee or sub-committee such functions in relation to matters of routine, or matters of so urgent a nature that they cannot conveniently be postponed until the appointment of a new committee or sub-committee, as the committee or sub-committee was entitled or required to discharge immediately before that day, and any committee, sub-committee or members empowered as aforesaid by any such standing orders shall continue as aforesaid to discharge the said functions.

(4) Standing orders made by a borough council with respect to any of the matters mentioned in paragraph (b) of subsection (1) of this section shall not apply to the assessment committee appointed by the council under paragraph (h) of section eighteen of the Local Government Act, 1929. [865]

This section is based on L.G.A. 1933, s. 96 (1) (26 Statutes 357) ; L.C.C.(G.P.) Act, 1933, s. 65 (*ibid.* 597) ; L.C.C.(G.P.) Act, 1934, ss. 29, 30 (27 Statutes 417, 418).

69. Proceedings, &c.—(1) In the case of an equality of votes at a meeting of a committee of a local authority, whether the committee is appointed under this Part of this Act or otherwise, the person presiding at the meeting, whether or not he voted or was entitled to vote in the first instance, may give a casting vote.

(2) Minutes of the proceedings of a meeting of a committee of a local authority shall be drawn up and shall be signed at the same or a subsequent meeting of the committee by the person presiding thereat, and any minute purporting to be so signed shall be received in evidence without further proof.

(3) Until the contrary is proved, a meeting of a committee of a local authority in respect of the proceedings of which a minute has been so signed shall be deemed to have been duly convened and held, and all the members present at the meeting shall be deemed to have been duly qualified, and the committee shall be deemed to have been duly

constituted and to have had power to deal with the matters referred to in the minutes.

(4) The proceedings of a committee of a local authority shall not be invalidated by any vacancy among its number, or by any defect in the qualification of any of its members. [866]

This section in effect reproduces L.G.A. 1933, s. 96 (2) and 3rd Schedule, Part V. paras. 3, 5 (26 Statutes 357, 501).

PART IV

OFFICERS

County Officers

70. Clerk of the county council.—(1) The county council shall appoint a fit person to be clerk of the county council, and shall pay to the person so appointed such reasonable remuneration as it may determine.

(2) The clerk of the county council shall hold office during the pleasure of the council.

(3) The clerk of the county council, when acting in relation to any business of the council, and when acting under any enactment, including any enactment in this Act, or statutory order relating to the deposit of plans or documents, shall act under the direction of the council, and all enactments and statutory orders relating to such business or to the deposit of plans or documents, other than those relating to judicial business, shall be construed as if the clerk of the county council were therein substituted for the clerk of the peace. [867]

This section corresponds to L.G.A. 1933, ss. 98, 99 (1), 101 (26 Statutes 358, 360), so far as they are applicable to London. In the case of the County of London, L.G.A. 1888, s. 83 (11) (10 Statutes 754), provided that the clerk of the peace for the County of London should be a separate officer from the clerk of the county council for the administrative county, and made certain administrative provisions accordingly. Provision for these offices to be separate offices in other counties was made by the Local Government (Clerks) Act, 1931 (24 Statutes 240), but county councils other than the L.C.C. are obliged to ascertain whether the person appointed would be willing to accept the office of clerk of the peace of the county. See, now, L.G.A. 1933, s. 98 (26 Statutes 358).

71. County treasurer.—(1) The county council shall appoint a fit person to be the county treasurer, and may pay to the person so appointed such reasonable remuneration as it may determine.

(2) The county treasurer shall hold office during the pleasure of the county council.

(3) A vacancy in the office of county treasurer shall be filled within four months after the date on which it occurs. [868]

72. Offices of clerk of county council and county treasurer not to be held by the same person.—The offices of clerk of the county council and county treasurer shall not be held by the same person or by persons who stand in relation to one another as partners or as employer and employee. [869]

These two sections together correspond to L.G.A. 1933, s. 102 (26 Statutes 360). Similar provisions are to be found from the time of the County Rates Act, 1738, onwards. See ss. 6, 11 of that Act (13 Statutes 417—419). It is a common practice to appoint a bank to be county treasurer, the administrative duties being performed by an officer bearing a distinct title.

73. County medical officer of health.—(1) The county council shall appoint one or more fit persons to be county medical officer or officers of health, and may pay to every person so appointed such reasonable remuneration as it may determine.

(2) A person shall not be appointed a county medical officer of health unless he is a duly qualified medical practitioner and is registered in the medical register as the holder of a diploma in sanitary science, public health, or state medicine.

(3) A county medical officer of health shall hold office during the pleasure of the county council.

(4) A county medical officer of health shall, for the purposes of his duties, have the same powers of entry on premises as are conferred by or under any enactment on a medical officer of health of a borough.

[870]

This section corresponds to L.G.A. 1933, s. 103 (20 Statutes 360), omitting the provision that the county M.O.H. may not be dismissed from his office without the consent of the Minister.

74. County surveyor.—(1) The county council shall appoint a fit person to be county surveyor, and may pay to the person so appointed such reasonable remuneration as it may determine.

(2) The county surveyor shall hold office during the pleasure of the county council.

(3) The county surveyor shall perform such duties as the county council may determine. [871]

This section corresponds to L.G.A. 1933, s. 104 (26 Statutes 361).

75. Appointment of staff.—(1) The county council shall appoint such other officers as it considers necessary for the efficient discharge of its functions, and may pay to an officer appointed under this section such reasonable remuneration as it may determine.

(2) Every officer so appointed shall hold office during the pleasure of the county council. [872]

This section corresponds to L.G.A. 1933, s. 105 (1), (2) (26 Statutes 361).

Borough Officers

76. Town clerk, borough treasurer and other officers.—(1) Every borough council shall appoint fit persons to be town clerk, borough treasurer, and borough surveyor, and shall also, in addition to appointing a medical officer or officers of health and sanitary inspectors in accordance with the following provisions of this Act, appoint such other officers as it considers necessary for the efficient discharge of its functions.

(2) A borough council may pay to an officer appointed under this section such reasonable remuneration as it may determine, and every officer so appointed shall hold office during the pleasure of the council.

(3) A vacancy in the office of town clerk or of borough treasurer shall be filled within twenty-one days after its occurrence.

(4) The offices of town clerk and borough treasurer shall not be held by the same person or by persons who stand in relation to one another as partners or as employer and employee.

(5) A borough council may assign officers to assist the town clerk in carrying out any of his duties in relation to the registration of electors and the conduct of parliamentary elections on such terms as may be agreed between the council and the town clerk. [873]

This section corresponds to L.G.A. 1933, s. 76 (26 Statutes 361—362).

77. Medical officers of health.—(1) Every borough council shall appoint one or more fit persons to be medical officer or officers of health for the borough.

(2) The same person may, with the consent of the Minister, be appointed medical officer of health for two or more boroughs by the councils thereof, and the Minister shall prescribe the mode of appointing any such officer and the proportions in which the expenses of the appointment and the salary and charges of the officer shall be borne by the councils by which he is appointed.

(3) A medical officer of health for a borough appointed after the commencement of this Act shall not engage in private practice nor, without the consent of the Minister, hold any other public appointment.

(4) A vacancy in the office of medical officer of health for a borough shall be filled within six months after its occurrence, or within such longer period thereafter as the Minister may in any particular case allow. [874]

This section is based on s. 8 (1), (2) of the Public Health (London) Act, 1936 (30 Statutes 449) (s. 8 of that Act is repealed by this Act). Sub.-s. 4 is based on L.G.A. 1933, s. 106 (4) (26 Statutes 362).

78. Sanitary inspectors.—(1) Every borough council shall appoint an adequate number of fit persons to be sanitary inspectors for the borough.

(2) If, on a representation made by the county council and after local inquiry, the Minister is satisfied that a borough council has failed to appoint an adequate number of sanitary inspectors for its borough, he may by order require the borough council to appoint such number of additional sanitary inspectors, and to allow them such remuneration, as may be specified in the order, and the council shall comply with the order.

(3) A vacancy in the office of sanitary inspector shall be filled within six months after its occurrence or within such longer period thereafter as the Minister may in any particular case allow. [875]

This section is based on s. 9 (1), (2) of the Public Health (London) Act, 1936 (30 Statutes 449) (now repealed), and L.G.A. 1933, s. 106 (4) (26 Statutes 362).

79. Qualifications, duties, &c., of medical officers of health and sanitary inspectors.—(1) The Minister may by regulations prescribe the qualifications to be held and the duties to be performed by, the mode of appointment of and terms as to salary and tenure of office of, medical officers of health and sanitary inspectors appointed by borough councils.

(2) A person shall not be appointed a medical officer of health for a borough unless, in addition to holding the qualifications prescribed under this section, he is a duly qualified medical practitioner and is registered in the medical register as the holder of a diploma in sanitary science, public health or state medicine.

(3) A medical officer of health for a borough shall perform such duties as may be prescribed under this section, and may exercise any of the powers which may be exercised by a sanitary inspector.

(4) A person shall not be appointed a sanitary inspector unless, in addition to holding the qualifications prescribed under this section, he is the holder of a certificate, issued by such body as the Minister may approve, stating that he has shown himself by examination to be competent for the office.

(5) A borough council may distribute the duties of the office of sanitary inspector among the sanitary inspectors appointed for the borough.

(6) Regulations made under this section shall be laid before each House of Parliament as soon as may be after they are made. [876]

This section is based on L.G.A. 1933, s. 108 (26 Statutes 363), and P.H. (London) Act, 1936, ss. 8, 9 (30 Statutes 449).

80. Payments by county council towards salary of medical officers of health and sanitary inspectors.—Where in the case of a medical officer of health or sanitary inspector appointed by a borough council the regulations made under subsection (1) of the last preceding section are complied with, the county council shall, during the tenure of office of that officer, pay to the borough council by which he is paid a sum equal to one-half of his salary :

Provided that, if the Minister certifies to the county council—

- (1) that a medical officer of health has failed to send to the Minister such reports and returns as are for the time being required by the regulations made under the last preceding section to be so sent ; or
- (2) that the provisions of the next succeeding section of this Act relating to a medical officer of health or sanitary inspector have not been complied with ;

the said sum equal to one-half of the salary of the medical officer of health, or, in the case of the non-compliance relating to a sanitary inspector, of the sanitary inspector, shall be forfeited to the Crown and shall be paid into the Exchequer and not to the borough council by which the officer is paid. [877]

This section corresponds to L.G.A. 1933, s. 109 (26 Statutes 364), omitting para. (b) of the first, and the whole of the second, proviso.

81. Tenure of office of medical officers of health and sanitary inspectors.—(1) A medical officer of health and the chief or senior sanitary inspector of a borough shall not be appointed for a limited period only and shall not be removable from office except by, or with the consent of, the Minister.

(2) The Minister shall take into consideration every representation made to him by a borough council for the removal from office of any of the officers aforesaid, whether it is made on the ground of the general interests of the borough or the conduct of the officer or any other ground. [878]

This section is based on L.G.A. 1933, s. 110 (26 Statutes 364—365).

General

82. Appointment of standing deputies.—(1) A local authority may appoint fit persons to be deputies of the holders of the following offices under the authority, that is to say, the offices of clerk of the authority, treasurer, surveyor, medical officer of health or sanitary inspector, for the purpose of acting in the place of the holder of the office whenever the office is vacant or the holder thereof is for any reason unable to act, or in such other circumstances or for such purposes as the authority may determine :

Provided that—

- (a) a person shall not be appointed a deputy medical officer of health unless he is a duly qualified medical practitioner ;
- (b) a person shall not be appointed by a borough council to be a deputy medical officer of health or a deputy sanitary inspector without the consent of the Minister.

(2) Any person appointed as a deputy under this section shall, when acting as such and subject to the terms of his appointment, have all the functions of the holder of the office.

(3) A local authority may pay to a person appointed as a deputy under this section such reasonable remuneration as it may determine, and every person so appointed shall hold office during the pleasure of the authority. [879]

This section corresponds to L.G.A. 1933, s. 115 (26 Statutes 367—368). Statutory provision had been made for the appointment of deputies to some of the officers referred to before the Act of 1933. See also L.G.A. 1888, s. 83 (11) (b) (10 Statutes 755), and London Government Act, 1899, s. 25 (11 Statutes 1238).

83. Appointment of temporary deputies.—(1) If the office of clerk of the authority, treasurer, surveyor, medical officer of health or sanitary inspector is vacant, or the holder of the office is for any reason unable to act, and no deputy has been appointed under the provisions of the last preceding section, or the deputy so appointed is unable to act, the local authority may appoint a person to act temporarily in that office, and any person so appointed shall, subject to the terms of his appointment, have all the functions of the holder of the office :

Provided that—

- (a) a person shall not be appointed to act in place of a medical officer of health unless he is a duly qualified medical practitioner ;
- (b) a person shall not be appointed by a borough council to act in the place of a medical officer of health or a sanitary inspector without the consent of the Minister.

(2) A local authority may pay to a person appointed under this section such reasonable remuneration as it may determine. [880]

This section is based on L.G.A. 1933, s. 116 (26 Statutes 368).

84. Payments by county council towards salary of person acting as medical officer of health or sanitary inspector.—Where, on a vacancy occurring in the office of a medical officer of health or a sanitary inspector of a borough in respect of whose salary a payment is made by the county council under this Part of this Act, a person appointed under either of the two last preceding sections to act as medical officer of health or sanitary inspector of the borough so acts, the county council shall, during the period for which he so acts, pay to the borough council a sum equal to one-half of the salary of that person :

Provided that, if the Minister certifies to the county council that a person so appointed to act as medical officer of health has failed to send to the Minister such reports and returns as are for the time being required by the regulations made under this Part of this Act respecting the duties of medical officers of health to be so sent, the said sum equal to one-half of the salary of that person shall be forfeited to the Crown, and shall be paid into the Exchequer and not to the borough council. [881]

This section reproduces L.G.A. 1933, s. 117 (26 Statutes 368—369) except the second proviso, which is inapplicable to London.

85. Saving for other enactments.—Nothing in the foregoing provisions of this Part of this Act shall affect the appointment or tenure of office of officers appointed under the Education Act, 1921, or the Poor Law Act, 1930, or of registrars, inspectors, analysts or other specially designated officers appointed under any enactment other than

this Act, and no specially designated officer who could be appointed under any such enactment shall be appointed under this Act. [882]

This section reproduces L.G.A. 1933, s. 118 (26 Statutes 369).

86. Security to be given by officers.—(1) A local authority shall, in the case of an officer employed by the authority who by reason of his office or employment is likely to be entrusted with the custody or control of money, and may in the case of any other officer employed by the authority, either require him to give, or itself take, such security for the faithful execution of his office and for his duly accounting for all money or property which may be entrusted to him, as the authority thinks sufficient.

(2) A local authority may, in the case of a person not employed by the authority but who is likely to be entrusted with the custody or control of money or property belonging to the authority, take such security as it thinks sufficient for his duly accounting for all such money or property.

(3) A local authority shall, in the case of persons not employed by the authority, and may in any other case, defray the cost of any security given or taken under this section, and every security so given or taken shall be produced to the district auditor at the audit of the accounts of the authority. [883]

This section corresponds to L.G.A. 1933, s. 119 (26 Statutes 369). Similar provisions in the County Rates Act, 1738, s. 6 (13 Statutes 117), P.H.A. 1875, s. 194 (*ibid.* 709), the Municipal Corporations Act, 1882, s. 20 (10 Statutes 583) and L.G.A. 1894, s. 17 (*ibid.* 789) were re-enacted in the section cited.

87. Accountability of officers.—(1) Every officer employed by a local authority shall, at such times during the continuance of his office, or within three months after his ceasing to hold it, and in such manner, as the authority may direct, make out and deliver to the authority, or as the authority may direct, a true account in writing of all money and property committed to his charge, and of his receipts and payments, with vouchers and other documents and records supporting the entries therein, and a list of the persons from whom or to whom money is due in connection with his office, showing the amount due from or to each.

(2) Every officer employed as aforesaid shall pay all money due from him to the county or borough treasurer, as the case may be, or otherwise as the authority may direct.

(3) If any officer employed as aforesaid—

- (a) refuses or wilfully neglects to make any payment which he is required by this section to make ; or
- (b) after three days' notice in writing, signed by the clerk of the authority or by three members of the authority, and given or left at his usual or last known place of residence, refuses or wilfully neglects to make out or deliver to the authority, or as the authority may direct, any account or list which he is required by this section to make out and deliver, or any voucher or other document or record relating thereto, or to give satisfaction respecting it to the authority or as the authority may direct ;

a court of summary jurisdiction having jurisdiction where the officer is or resides may, on complaint, by order require him to make such payment or delivery or to give such satisfaction.

(4) Nothing in this section shall affect any remedy by action against

an officer employed as aforesaid or his surety, except that the officer shall not be both sued by action and proceeded against summarily for the same cause. [884]

This section corresponds to L.G.A. 1933, s. 120 (26 Statutes 370).

88. Notice of termination of and retirement from appointments held during pleasure.—(1) Notwithstanding any provision in this Act or any other enactment to the effect that a person holding any office shall hold the office during the pleasure of a local authority, there may be included in the terms on which a person holds the office a provision that the appointment shall not be terminated by either party without giving to the other party such reasonable notice as may be agreed, and where, at the commencement of this Act, an officer holds office upon terms which purport to include such a provision, that provision shall, as from the commencement of this Act, be deemed to be valid.

(2) A provision in this Act or any other enactment to the effect that a person holding any office shall hold the office during the pleasure of a local authority, shall not affect any right or obligation of the officer to retire on attaining any specified age or on the happening of any specified event in pursuance of any enactment or scheme relating to superannuation allowances which is applicable to the officer. [885]

This section applies to London the provisions first applied to authorities outside London by L.G.A. 1933, s. 121 (26 Statutes 371). See *Brown v. Dagenham U.D.C.*, [1929] 1 K. B. 737; Digest Supp.

89. Members of local authorities not to be appointed as officers.—A person shall, so long as he is, and for twelve months after he ceases to be, a member of a local authority, be disqualified for being appointed by that authority to any paid office, other than to the office of chairman or deputy chairman in the case of the county council, or to the office of mayor in the case of a borough. [886]

This section is based on L.G.A. 1933, s. 122 (26 Statutes 371). Sections 17, 18 of the Municipal Corporations Act, 1882 (10 Statutes 582) prohibited the appointment of members as town clerk or borough treasurer, but did not prevent the appointment of a recently retired member.

90. Disclosure by officers of interest in contracts.—(1) If it comes to the knowledge of an officer employed by a local authority that a contract in which he has any pecuniary interest, whether direct or indirect, not being a contract to which he is himself a party, has been, or is proposed to be, entered into by the authority or by any committee thereof, he shall, as soon as practicable, give notice in writing to the authority of the fact that he is interested therein.

(2) For the purposes of this section, a person shall, subject as herein-after provided, be treated as having indirectly a pecuniary interest in a contract or proposed contract if—

- (a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made; or
- (b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made:

Provided that—

- (i) this subsection shall not apply to membership of, or employment under, a public body;
- (ii) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested

if he has no beneficial interest in any shares or stock of that company or other body.

(3) In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purposes of this section to be also an interest of that other spouse.

(4) If any person fails to comply with the provisions of this section, he shall in respect of each offence be liable on summary conviction to a fine not exceeding fifty pounds.

Provided that proceedings for an offence under this section shall not be instituted except by or with the consent of the Director of Public Prosecutions. [887]

This section is based on L.G.A. 1933, s. 123 (26 Statutes 371), omitting sub-s. (2), which is reproduced in the following section. See also M.M.A. 1855, s. 64 (11 Statutes 893). The proviso to sub-s. (4) is not found in L.G.A. 1933.

91. Prohibition against acceptance of unauthorised fees, &c. by officers.—(1) An officer of a local authority shall not, under colour of his office or employment, exact or accept any fee or reward whatsoever other than his proper remuneration.

(2) If any person acts in contravention of the provisions of this section, he shall in respect of each offence be liable on summary conviction to a fine not exceeding fifty pounds :

Provided that proceedings for an offence under this section shall not be instituted except by or with the consent of the Director of Public Prosecutions. [888]

This section reproduces L.G.A. 1933, s. 123 (2) (26 Statutes 371), the language of which was no doubt based on the wording of M.M.A. 1855, s. 64, quoted in the note to the previous section. The provision prohibiting proceedings except by or with the consent of the Director of Public Prosecutions, which in L.G.A. 1933, applies only in the case of members, is repeated.

92. Power of county council to pay compensation for death of, or injury to, officers.—(1) The county council may pay compensation—

- (a) to an officer of the council who sustains an injury in the course of his employment ; or
- (b) to the widow or widower or child of an officer who, in the course of his employment, dies or sustains an injury resulting in death.

(2) Any compensation payable under this section may be paid either in a lump sum or by instalments payable at such times and for such periods as the county council may determine.

(3) The county council may enter into a contract with any society or company for the payment, upon such terms as may be agreed, by the society or company of any compensation payable by the council under this section.

(4) The payment of compensation under this section shall not be construed to take away or prejudicially affect any right or claim to damages or compensation which an officer of the county council or his widow or widower or child may have against any person other than the council or, except so far as may be agreed when the compensation is granted, against the council. [889]

This section is based on L.C.C.(G.P.) Act, 1895, s. 44 (11 Statutes 1219). The power is in addition to the council's liability under the Fatal Accidents Act, 1846 (12 Statutes 335).

93. Power to pay moneys due to deceased officers, &c. to certain persons without grant of probate, &c.—(1) If on the death of an officer

or pensioner of a local authority to whom, or to whose personal representative, a sum not exceeding one hundred pounds is due from the authority on account of remuneration, pension, superannuation or other allowance, gratuity or annuity, or by way of repayment (with or without interest) of contributions made to any superannuation or other fund, a grant of probate of the will of the deceased or of letters of administration to his estate is not produced to the authority within such time (not being less than one month after his death) as the authority may in all the circumstances think reasonable, then, at the expiration of that time, the authority may pay such sum to the person or persons entitled to the residuary estate of the deceased by virtue of the provisions of paragraphs (i) to (vi) of subsection (1) of section forty-six of the Administration of Estates Act, 1925, and section nine of the Legitimacy Act, 1926, to the intent that such sum shall be applied in due course of administration :

Provided that—

- (a) the authority may at any time, and notwithstanding the receipt of such a notice as is hereinafter mentioned, pay to any person who has paid the funeral expenses of the deceased such amount, not exceeding the total amount of such expenses, as the authority considers it reasonable to allow ;
 - (b) if the authority receives notice in writing of any claim against the estate of the deceased at any time before it shall have paid the whole of such sum in accordance with the provisions of this subsection, it shall not (except in any case in which the provisions of paragraph (vi) of subsection (1) of section forty-six of the Administration of Estates Act, 1925, apply) pay such sum or the balance thereof in its hands to any person other than to the personal representative of the deceased unless and until such claim has been satisfied, disproved or withdrawn.
- (2) A local authority, before paying any sum in accordance with the provisions of subsection (1) of this section to any person or persons other than the personal representative of the deceased, shall require either—
- (a) a statutory declaration, or when payment is made to the Crown or to the Duchy of Lancaster or to the Duke of Cornwall for the time being, as the case may be, a statement, by the person or one of the persons to whom the authority may pay and proposes to pay such sum or any part thereof to the effect that the total estate of the deceased (including such sum but after deduction of debts and funeral expenses) does not exceed one hundred pounds ; or
 - (b) the production of a certificate from the Commissioners of Inland Revenue to the effect either that no death duties are payable in respect of such sum or that any duties so payable have been paid.
- (3) In this section the expression “ pensioner ” includes a person entitled to any pecuniary benefit under any enactment or scheme for the establishment of a superannuation fund or a superannuation and provident fund administered by the local authority. [890]

94. Payment of salary, &c. due to person of unsound mind.—

(1) Subject to the provisions of this section, where a person entitled to receive from a local authority any sum to which this section applies is lawfully detained as a person of unsound mind in accordance with the provisions of the Lunacy Act, 1890, as amended by any subsequent enactment, the authority may pay the whole of that sum, or so much thereof as it thinks fit, to the institution or person having the care of the person so detained as aforesaid, and may pay or apply the whole or so much as it thinks fit of the surplus (if any) thereof to or for the maintenance or benefit of the wife or husband or relatives of that person.

(2) Subject to the provisions of this section, where a person entitled to receive from a local authority any sum to which this section applies is, in the opinion of the authority, through mental infirmity incapable of managing his affairs, the authority may pay or apply the whole, or so much as it thinks fit, of that sum to or for the maintenance or benefit of such person or of his wife or husband or relatives.

(3) This section applies to any sum payable by a local authority to an officer of the authority, or to a pensioner of the authority within the meaning of the last preceding section, or to the widow or widower or a child of a deceased officer or pensioner, by way of remuneration, pension, superannuation or other allowance, gratuity or annuity, or by way of repayment (with or without interest) of contributions made to any superannuation or other fund, being either a lump sum not exceeding one hundred pounds or an instalment of a periodical payment not exceeding one hundred pounds per annum.

(4) Not less than fourteen days before exercising its powers under this section for the first time in relation to any person, a local authority shall give to the Master in Lunacy notice in writing of its intention in that behalf, specifying the name and address of that person and the amount and nature of the sums in respect of which the authority intends to exercise the said power, and, in relation to any person to whom subsection (2) of this section applies, the authority shall, at the same time, give notice in writing to that person in a form approved by the Master in Lunacy :

Provided that a local authority may, with the approval of the Master in Lunacy, exercise the powers of this section in respect of any person, notwithstanding that the said period of fourteen days has not expired.

(5) If at any time the Master in Lunacy gives to the local authority notice in writing that he objects to the exercise by the authority of the said power in relation to any person, the said power shall, as from the date of the receipt by the authority of the notice, cease to be exercisable by the authority in relation to that person unless and until the Master withdraws the notice.

(6) A local authority shall be discharged from all liability in respect of any payment or application of money effected by the authority in exercise of the powers conferred on it by this section. [891]

These two sections replace provisions applicable to London from the L.C.C.(G.P.) Acts. See, e.g., the Act of 1907, ss. 50, 51 (11 Statutes 1283).

95. Saving for existing officers, &c.—(1) Subject to the provisions of section eighty-eight of this Act, nothing in this Part of this Act shall affect the salary or tenure of office of any officer holding office at the commencement of this Act.

(2) Nothing in this Part of this Act requiring vacancies to be filled within a specified period shall be construed as preventing a local

authority from deciding not to make an appointment to any office in respect of which it has a discretion to make or not to make an appointment.

(3) Nothing in this Part of this Act shall affect the terms of any agreement made between a borough council and the Minister of Transport under subsection (2) of section seventeen of the Ministry of Transport Act, 1919, with respect to the appointment, retention or dismissal of any engineer or surveyor of the council responsible for the maintenance of roads. [892]

This section corresponds to L.G.A. 1933, s. 124 (26 Statutes 372).

96. Extension of provisions relating to medical officers of health and sanitary inspectors to the City of London, &c.—The provisions of sections seventy-seven to eighty-four and of section ninety-five of this Act, so far as they relate to medical officers of health and sanitary inspectors, shall apply to the City of London, the Port of London, the Inner Temple and the Middle Temple, and accordingly references in those sections to a borough shall be construed as including each of those areas and references therein to a borough council or to a local authority shall be construed as including the common council of the City of London, the port health authority of the Port of London and the overseers of the Inner Temple and of the Middle Temple respectively :

Provided that—

- (i) the provisions of subsection (2) of section seventy-eight of this Act shall not apply to the Port of London ; and
- (ii) the provisions of sections eighty and eighty-four of this Act shall not apply in the case of a medical officer of health or sanitary inspector appointed by the port health authority of the Port of London. [893]

PART V

ACQUISITION OF, AND DEALINGS IN, LAND

Acquisition of Land by agreement

97. Acquisition of land by agreement.—(1) A local authority may, for the purpose of any of its functions (including in the case of the county council those discharged through the standing joint committee) by agreement acquire, whether by way of purchase, lease or exchange, any land, whether situate within or without its area.

(2) The county council may, for the purpose of the benefit, improvement or development of the county, by agreement acquire, whether by way of purchase, lease or exchange, any land situate within the county.

[894]

This section corresponds generally to L.G.A. 1933, s. 157 (26 Statutes 391—392). See also L.C.C.(G.P.) Act, 1935, s. 62 (28 Statutes 158).

98. Acquisition of land in advance of requirements.—(1) The power to acquire land under the last preceding section of this Act may be exercised notwithstanding that the land is not immediately required for the purpose for which it is to be acquired :

Provided that, except with the consent of and subject to any conditions imposed by the appropriate Minister, the powers conferred by this section shall not be exercised—

- (a) by the county council as regards any land situate without the county ;

(b) by a borough council.

(2) Any land acquired by the county council or a borough council under this section may, until it is required for the purpose for which it was acquired, be held and used for the purpose of any of the functions of the council.

(3) In this section the expression "the appropriate Minister" means the Secretary of State, Minister, Board, Commissioners, or other department concerned with the purpose for which the land is to be acquired. [895]

Power to acquire land in advance of requirements had been conferred on many authorities outside London by Local Act before 1933, when a general provision was made by L.G.A. 1933, s. 158 (26 Statutes 392), to which this section generally corresponds. Similar powers limited to specific purposes were also contained in the Housing Act, 1925, s. 58 (13 Statutes 1036) and the Allotments Act, 1925, s. 5 (1 Statutes 320). Cf. also the Town and County Planning Act, 1932, s. 25 (25 Statutes 503). The power was given to the L.C.C. by L.C.C.(G.P.) Act, 1935, s. 62 (28 Statutes 158).

99. Application of Lands Clauses Acts to purchases by agreement.—For the purpose of the provisions of this Part of this Act relating to the acquisition of land by agreement, the Lands Clauses Acts, except the provisions relating to access to the special Act, and except sections one hundred and twenty-seven to one hundred and thirty-two, and in the case of land situate within the county section one hundred and thirty-three, of the Lands Clauses Consolidation Act, 1845, shall be incorporated with this Act, and in construing those Acts for the purposes of this section this Act shall be deemed to be the special Act, the council acquiring the land shall be deemed to be the promoters of the undertaking, and the word "land" shall have the meaning assigned to it in this Act. [896]

This section corresponds to L.G.A. 1933, s. 176 (26 Statutes 403).

Compulsory acquisition of Land

100. Power to purchase land compulsorily.—A local authority may be authorised to purchase compulsorily any land, whether situate within or without its area, for the purpose of any of its functions, including, in the case of the county council, those discharged through the standing joint committee. [897]

This section corresponds to L.G.A. 1933, s. 159 (26 Statutes 392).

101. Compulsory purchase of land by means of a provisional order.—(1) The following provisions of this section shall have effect with respect to the compulsory purchase of land by a local authority in cases where power to authorise the authority to purchase land compulsorily is conferred—

- (a) by this Act; or
- (b) by any enactment or statutory order which was in force immediately before the commencement of this Act and which incorporates or applies section one hundred and seventy-six of the Public Health Act, 1875; or
- (c) by any enactment passed or statutory order made after the commencement of this Act empowering the Minister to authorise the local authority to purchase land compulsorily by means of a provisional order made by him and confirmed by Parliament.

(2) The local authority shall publish in one or more local newspapers circulating in the locality in which the land proposed to be purchased

is situate a notice describing the land and stating the purpose for which the land is required.

(3) The local authority shall serve in the prescribed manner on every owner, lessee and occupier (except tenants for a month or any less period) of the land proposed to be purchased, a notice in the prescribed form indicating in each case the particular land intended to be purchased and the purpose for which the land is required, and stating that the authority propose to request the Minister to make a provisional order empowering it to purchase the land compulsorily, and specifying the time within which and the manner in which objections can be made to the proposed order.

(4) On compliance with the foregoing provisions of this section, the local authority may request the Minister to make a provisional order empowering it to purchase the land compulsorily.

(5) If no objection is duly made by any of the persons on whom notices are required to be served, or if all objections so made are withdrawn, the Minister, on being satisfied that the proper notices have been published and served, may, if he thinks fit, make a provisional order authorising the local authority to purchase compulsorily the land comprised in the order, but in any other case he shall, before making the provisional order, cause a local inquiry to be held, and shall consider any objection not withdrawn and the report of the person who held the inquiry :

Provided that the Minister may require any person who has made an objection to state in writing the grounds thereof, and may make a provisional order without causing a local inquiry to be held if satisfied that every objection duly made and not withdrawn relates exclusively to matters which can be dealt with by the tribunal by which the compensation is to be assessed.

(6) A provisional order made under this section shall incorporate such of the provisions of the Lands Clauses Acts and the Railways Clauses Consolidation Act, 1845, as are specified in Part I of the Fourth Schedule to this Act, subject as regards the Lands Clauses Acts to the modifications set out in Part II of that Schedule.

(7) Where a provisional order has been made by the Minister, the local authority shall serve in the prescribed manner a copy of the order on the persons on whom notices with respect to the land to be purchased are required to be served under this section.

(8) In construing for the purposes of this section or any provisional order made thereunder any enactment incorporated in the order, the enactment or statutory order by virtue of which the order is made, together with the order, shall be deemed to be the special Act, and the local authority to be the promoters of the undertaking or the company, as the case may require, and the word "land" shall have the meaning assigned to it in this Act. [398]

This section reproduces L.G.A. 1933, s. 160 (26 Statutes 393—394). "Land" (s. 206. post) includes any interest in land and any easement or right in, to or over land.

102. Compulsory purchase of land by means of an order confirmed by the Minister.—(1) The following provisions of this section shall have effect with respect to the compulsory purchase of land by a local authority in cases where the authority is authorised by any public general Act passed after the commencement of this Act to purchase land compulsorily by means of an order (in this Part of this Act referred to as "a compulsory purchase order") made by the authority and confirmed by the Minister.

(2) A compulsory purchase order shall be in the prescribed form and shall describe by reference to a map the land to which it applies, and shall incorporate such of the provisions of the Lands Clauses Acts and the Railways Clauses Consolidation Act, 1845, as are specified in Part I of the Fourth Schedule to this Act, subject as regards the Lands Clauses Acts to the modifications set out in Part II of that Schedule.

(3) Before submitting the order to the Minister, the local authority shall—

- (a) publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situate a notice stating that the order has been made and the purpose for which the land is required, describing the land, and naming a place within the locality where a copy of the order and of the map referred to therein may be inspected; and
- (b) serve in the prescribed manner on every owner, lessee and occupier (except tenants for a month or any less period) of any land comprised in the order a notice in the prescribed form stating the effect of the order and that it is about to be submitted to the Minister for confirmation, and specifying the time within which and the manner in which objections thereto can be made.

(4) If no objection is duly made by any of the persons on whom notices are required to be served, or if all objections so made are withdrawn, the Minister, on being satisfied that the proper notices have been published and served, may, if he thinks fit, confirm the order with or without modifications, but in any other case he shall, before confirming the order, cause a local inquiry to be held, and shall consider any objection not withdrawn and the report of the person who held the inquiry, and may then confirm the order either with or without modifications:

Provided that—

- (a) the Minister may require any person who has made an objection to state in writing the grounds thereof, and may confirm the order without causing a local inquiry to be held if satisfied that every objection duly made and not withdrawn relates exclusively to matters which can be dealt with by the tribunal by which the compensation is to be assessed;
- (b) the order as confirmed by the Minister shall not authorise the local authority to purchase compulsorily any land which the order would not have authorised the authority so to purchase if it had been confirmed without modification.

(5) In construing for the purposes of this section or any order made thereunder any enactment incorporated in the order, the enactment by virtue of which the order is made, together with the order, shall be deemed to be the special Act, and the local authority to be the promoters of the undertaking or the company, as the case may require, and the word "land" shall have the meaning assigned to it in this Act.

(6) As soon as may be after the compulsory purchase order has been confirmed by the Minister, the local authority shall publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situate a notice in the prescribed form stating

that the order has been confirmed, and naming a place within the locality where a copy of the order as confirmed and of the map referred to therein may be inspected, and shall serve in the prescribed manner a like notice and a copy of the order as confirmed on the persons on whom notices with respect to the land comprised in the order are required to be served under this section.

(7) Subject to the provisions of the next succeeding section, a compulsory purchase order shall become operative at the date on which notice of its confirmation is published in accordance with the provisions of the last preceding subsection. [899]

This section reproduces L.G.A. 1933, s. 161 (26 Statutes 394—396).

103. Validity of compulsory purchase orders.—(1) If any person aggrieved by a compulsory purchase order (other than a compulsory purchase order which is provisional only until it is confirmed by Parliament) desires to question its validity, he may, within two months after the publication of the notice of confirmation in accordance with the last preceding section of this Act, make an application for the purpose to the High Court, and if on any such application the court is satisfied that the order is invalid, and, where the invalidity of the order arises from a failure to comply with any provision governing the procedure for the making or confirmation thereof, is further satisfied that the interests of the applicant have been substantially prejudiced by that failure, the court may quash the order either generally or in so far as it affects any property of the applicant.

(2) Subject to the provisions of the last preceding subsection, a compulsory purchase order shall not, either before or after its confirmation, be questioned in any legal proceedings. [900]

This section reproduces L.G.A. 1933, s. 162 (26 Statutes 396).

104. Provisions as to commons and open spaces.—(1) Where a compulsory purchase order authorises the acquisition of any land forming part of a common, open space or allotment, the order shall be provisional only, and shall not have effect until it is confirmed by Parliament.

(2) This section shall not apply where the order provides for giving in exchange for the land authorised to be acquired some other land, not being less in area, which is certified by the Minister, after consultation with the Minister of Agriculture and Fisheries, to be equally advantageous to the persons, if any, entitled to commonable or other rights and to the public :

Provided that—

(a) before giving a certificate under this subsection, the Minister shall give public notice of the proposed exchange, and shall afford opportunities to all persons interested to make representations and objections in relation thereto, and shall, if necessary, hold a local inquiry ; and

(b) the order shall provide for vesting the land given in exchange in the persons in whom the common, open space or allotment was vested, subject to the same rights, trusts and incidents as attached to the common, open space or allotment, and for discharging the part of the common, open space or allotment acquired from all rights, trusts and incidents to which it was previously subject.

(3) In this section the expression—

“Allotment” means an allotment set as a fuel allotment or a field garden allotment under an Inclosure Act ;

“Common” includes land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town or village green ;

“Open space” means any land laid out as a public garden or used for the purposes of public recreation, and any disused burial ground. [901]

This section reproduces L.G.A. 1933, s. 174 (26 Statutes 401—402).

105. Provisions as to land in neighbourhood of royal palaces or parks.—(1) Where any land proposed to be acquired by means of a compulsory purchase order is situate within the prescribed distance from any of the royal palaces or parks, the local authority shall communicate with the Commissioners of Works; and the Minister shall, before confirming the order or authorising the raising of any loan for the purpose of the acquisition of the land, take into consideration any recommendation received from the Commissioners of Works with reference to the proposal.

(2) Before making any regulations under this section, the Minister shall consult the Commissioners of Works. [902]

This section reproduces L.G.A. 1933, s. 175 (26 Statutes 402). Cf. the Town and Country Planning Act, 1932, s. 43 (25 Statutes 511), under which the prescribed distance is two miles in the case of Windsor Castle, Windsor Great Park and Windsor Home Park, and half a mile in the case of any other royal palace.

Appropriation of Land

106. Power to appropriate land.—(1) Any land belonging to a local authority and not required for the purposes for which it was acquired or has been subsequently appropriated may, with the consent of the Minister, be appropriated for any other purpose for which the authority is authorised to acquire land.

(2) In the case of an appropriation under this section of land acquired under any enactment (including any enactment in this Act) or statutory order incorporating the Lands Clauses Acts, any work executed on the land after the appropriation has been effected shall, for the purposes of section sixty-eight of the Lands Clauses Consolidation Act, 1845, be deemed to have been authorised by the enactment or statutory order under which the land was acquired.

(3) On an appropriation under this section of land belonging to a local authority, such adjustment shall be made in the accounts of the authority as may be necessary. [903]

This section is based on L.G.A. 1933, s. 163 (26 Statutes 396—397). See also L.C.C. (G.P.) Acts, 1915, s. 60, and 1927, s. 57 (11 Statutes 1332, 1395).

Disposal of Land

107. Power to let land.—A local authority may let any land belonging to it—

(a) with the consent of the Minister, for any term ;

(b) without such consent, for a term not exceeding seven years.

[904]

This section reproduces L.G.A. 1933, s. 164 (26 Statutes 397).

108. Power to sell or exchange land.—A local authority may, with the consent of the Minister,—

(a) sell any land belonging to it ;

- (b) exchange any land belonging to it for other land, either with or without paying or receiving any money for equality of exchange. [905]

This section reproduces L.G.A. 1933, s. 165 (26 Statutes 397). It will be observed that throughout this Act the pronoun "it" is used in reference to a local authority, in place of "they," which is used in the Act of 1933 and most, if not all, other statutes. The singular and impersonal pronoun is no doubt grammatically correct in speaking of a corporate body. A committee is not a corporate body, but see *e.g.* s. 62 (8).

109. Application of capital money.—(1) Capital money received by the county council in respect of a transaction under either of the two last preceding sections shall be credited to the Consolidated Loans Fund in accordance with the provisions of the London County Council (Finance Consolidation) Act, 1912.

(2) Capital money received by a borough council in respect of a transaction under either of the two last preceding sections shall be applied in such manner as the Minister may approve towards the discharge of any debt of the council or otherwise for any purpose for which capital money may properly be applied :

Provided that, if the land to which the transaction relates is parish property vested in the council on behalf of a parish situate in the borough, any capital money received by the council in respect of the transaction shall be applied in such manner as the Minister may approve towards the discharge of any debt of the parish or otherwise for the permanent advantage of the parish.

(3) Where capital money is applied under the last preceding subsection for a purpose other than that for which the land which was the subject of the transaction was held, such adjustment shall be made in the accounts of the borough council as the Minister may direct. [906]

The L.C.C. (Finance Consolidation) Act, 1912, is not printed in Halsbury's Statutes. Subject to the special provisions of sub-s. (1), based on that Act, this section corresponds to L.G.A. 1933, s. 166 (26 Statutes 397—398).

General

110. Lands belonging to Duchy of Lancaster.—The Chancellor and Council of the Duchy of Lancaster may sell to a local authority any land belonging to His Majesty in right of the said Duchy which the authority thinks fit to purchase, and the land may be assured to the authority and the proceeds of the sale shall be paid and dealt with as if the land had been sold under the authority of the Duchy of Lancaster Lands Act, 1855. [907]

This section reproduces L.G.A. 1933, s. 173 (26 Statutes 401).

111. Payment of purchase or compensation money by one authority to another.—(1) Any purchase money or compensation payable in pursuance of this Part of this Act by a local authority in respect of any land acquired from any other local authority, whether a local authority for the purposes of this Act or for the purposes of the Local Government Act, 1933, which would, but for this section, be required to be paid into court in manner provided by the Lands Clauses Acts may, if the Minister consents, instead of being paid into court, be paid and applied as the Minister may determine.

(2) A decision of the Minister under this section shall be final. [908]

This section reproduces L.G.A. 1933, s. 177 (26 Statutes 403).

112. Application of proceeds of sale of parish property.—Where property representing the proceeds of sale of parish property is held at

the commencement of this Act by a borough council for the benefit of a parish, the property and the income thereof shall continue to be applied to the purposes to which they were applied immediately before the commencement of this Act until the Minister otherwise directs. [909]

This section reproduces L.G.A. 1933, s. 178 (26 Statutes 403).

113. Power of county council to retain superfluous lands.—The county council may retain any land vested in it which is not required for the purpose for which the land was acquired, notwithstanding the incorporation in the enactment under which the land was acquired of section one hundred and twenty-seven of the Lands Clauses Consolidation Act, 1845, or any other enactment requiring land not required for the purpose for which it was acquired to be sold or otherwise disposed of. [910]

This section corresponds to L.C.C.(G.P.) Act, 1912, s. 46, and L.C.C. (Money) Act, 1924, s. 6, which are not printed in Halsbury's Statutes.

114. Savings.—(1) Nothing in this Part of this Act shall—

- (a) authorise the compulsory acquisition by means of a compulsory purchase order of land which is the site of an ancient monument or other object of archaeological interest :
- (b) affect the provisions of the Ancient Monuments Acts, 1913 and 1931, or empower a local authority to acquire or to dispose of, whether by sale, lease or exchange, or to appropriate, any ancient monument within the meaning of those Acts :
- (c) authorise the compulsory acquisition by means of a compulsory purchase order of land which is the property of any other local authority, whether a local authority for the purposes of this Act or for the purposes of the Local Government Act, 1933, or which is the property of, or is held in trust for, the Honourable Society of the Inner Temple or the Honourable Society of the Middle Temple, or which has been acquired by statutory undertakers for the purposes of their undertaking :
- (d) authorise the disposal of land by a local authority, whether by sale, lease or exchange, in breach of any trust, covenant or agreement binding upon the authority :
- (e) authorise a borough council to dispose, whether by sale, lease or exchange, of any recreation ground or open space dedicated to the use of the public, or any land held on trusts which prohibit the erection of buildings thereon :
- (f) where a power to acquire land conferred under any enactment or statutory order on a local authority is expressly limited to acquisition by agreement, confer on the authority power to acquire land compulsorily for the purposes of that enactment or statutory order :
- (g) affect the provisions of the Public Works Facilities Act, 1930.

(2) Nothing in this Part of this Act, other than the last preceding section, shall affect any provisions relating to the acquisition, appropriation or disposal of land by a local authority contained in any of the enactments set out in the Fifth Schedule to this Act or in any statutory order made thereunder, or the application of any capital money arising from the disposal, or, in so far as any of those enactments or orders contains provisions relating to the acquisition, appropriation, or disposal

of land, or the application of capital money arising from land, empower a local authority to effect, otherwise than in accordance with those provisions, any transaction which might be effected thereunder. [911]

This section reproduces L.G.A. 1933, s. 179 (26 Statutes 403—404).

PART VI

EXPENSES

County Council

115. General and special county purposes.—(1) In this Act and in every other enactment relating to the expenses of the county council, unless the context otherwise requires—

(a) The expression “general county purposes” means all purposes declared by this Act or any other enactment or by any statutory order to be general county purposes, and all purposes for expenditure on which the whole of the county is chargeable, and all purposes which are not made special county purposes by or under any enactment or statutory order :

(b) The expression “special county purposes” means any purposes for expenditure on which part only of the county is chargeable, whether by reason of any part of the county being exempt therefrom or otherwise.

(2) All expenses incurred by the county council under this Act or any enactment passed after the commencement of this Act shall, unless the enactment otherwise provides, be deemed to be expenses for general county purposes.

(3) In determining the amount of expenses for any particular county purpose, general or special, a proper proportion of the cost of the officers and buildings and establishment of the county council may be added to the expenses directly incurred for that purpose. [912]

This section corresponds to L.G.A. 1933, s. 180 (26 Statutes 404—405).

116. Annual budget of county council.—(1) Before the beginning of every financial year, the county council shall cause to be submitted to it an estimate of the income and expenditure of the council during that financial year, whether on account of property, contributions, rates, loans, or otherwise.

(2) The council shall estimate the amounts which will be required to be raised in the first six months and in the second six months of the financial year by means of precepts.

(3) If before the expiration of the first six months of the financial year it appears to the council that the amounts estimated at the beginning of the year will be larger than is necessary or will be insufficient, the council may revise the estimate and alter the amounts accordingly. [913]

This section corresponds to L.G.A. 1933, s. 182 (26 Statutes 405—406).

117. Power of county council to issue precepts.—(1) The county council shall have power to issue precepts for the levying of rates to meet all liabilities which fall to be discharged by the council and for which provision is not otherwise made.

(2) A precept issued by the county council shall be so issued as to secure that the rate is levied—

- (a) in the case of a rate to meet liabilities in respect of expenditure for general county purposes, on the whole of the county ;
- (b) in the case of a rate to meet liabilities in respect of expenditure for a special county purpose, on the part of the county chargeable therewith.

(3) A precept issued by the county council may include as separate items a contribution for general county purposes and a contribution for special county purposes.

(4) Sums required to meet the liabilities of the county council shall be assessed on the parishes liable to contribute thereto in proportion to the annual value thereof as determined by the standard or basis for the county rate.

(5) A precept issued by the county council may include contributions in respect of expenses which have been incurred, or in respect of sums which have become payable in respect of any expenses, at any time before the precept is issued. [914]

In this section, sub-ss. (1)—(3) are in terms identical with L.G.A. 1933, s. 183 (1)—(3) (26 Statutes 406). This section, and the repeal of corresponding provisions of L.G.A. 1888, did not apply to London, and in relation to London the appropriate provisions of L.G.A. 1888, s. 68 (10 Statutes 740—741) continued to apply, save that by L.C.C.(G.P.) Act, 1933, s. 67 (26 Statutes 598) the limitation of six months for the retrospective levy of county contributions imposed by L.G.A. 1888, s. 68 (9) was repealed. The new method of assessing the county rate enacted by the Rating and Valuation Act, 1925, ss. 9, 69 (2) (14 Statutes 627—630, 689) does not extend to London. Sub-ss. (4), (5) of the present section therefore are declaratory of existing provisions, now peculiar to London, in L.G.A., 1888, as amended.

It is, however, important to observe that sub-s. (4) does not mean that the L.C.C. must fix a county rate basis or standard under s. 21 of the County Rates Act, 1852 (14 Statutes 520) as was done outside London until 1925, for by the Valuation (Metropolis) Act, 1869, s. 45 (14 Statutes 569) the valuation list for the time being in force is conclusive for (*inter alia*) the purpose of the county rate, and in construing the County Rates Act, 1852, and Acts referring to the valuation estimate basis or standard for the county rate the valuation estimate basis or standard shall be deemed to be the rateable value stated in such list.

118. County fund.—(1) Subject to the provisions of the London County Council (Finance Consolidation) Act, 1912, all receipts of the county council, whether for general or special county purposes, shall be carried to the county fund, and all liabilities falling to be discharged by the council, whether for general or special county purposes, shall be discharged in the first instance out of that fund.

(2) Separate accounts shall be kept of receipts carried to, and payments made out of, the county fund—

- (a) for general county purposes ;
- (b) for each special county purpose, except that, where as respects any two or more special county purposes the part of the county chargeable is the same, one separate account may be kept as respects both or all of those purposes ;

and the account for general county purposes shall be called the general county account, and an account for any special county purpose shall be called a special county account. [915]

This section is a combination of L.G.A. 1888, s. 68 (1) (10 Statutes 740) and L.G.A. 1933, s. 181 (26 Statutes 405).

119. Payments to and out of county fund.—(1) All payments to and out of the county fund shall be made to and by the county treasurer.

(2) All payments out of the county fund shall, unless made in pursuance of the specific requirement of any enactment or of an order

made by a competent court or by a justice of the peace acting in discharge of his judicial functions, be made in pursuance of an order of the county council signed by three members of its finance committee present at the meeting of the council at which the order is made and countersigned by the clerk of the county council, and the same order may include several payments.

(3) An order for the payment of a sum out of the county fund shall not be made by the county council except in pursuance of a resolution of the council passed on the recommendation of its finance committee.

(4) All cheques issued in pursuance of an order of the county council made under this section shall be countersigned by the clerk of the county council or by some other person approved by the council.

(5) Any person aggrieved by an order of the county council made under this section may appeal to the High Court, and on any such appeal the court may give such directions in the matter as it thinks proper, and the order of the court shall be final. [916]

This section corresponds to L.G.A. 1933, s. 184 (26 Statutes 406—407).

Borough Councils

120. Power of borough council to levy rates.—A borough council shall have power to levy rates to meet all liabilities falling to be discharged by the council for which provision is not otherwise made. [917]

. This section reproduces L.G.A. 1933, s. 186 (26 Statutes 407).

121. General rate fund of borough.—(1) All receipts of a borough council shall be carried to the general rate fund of the borough, and all payments falling to be made by the council shall be made out of that fund.

(2) An account, called the "general rate fund account," shall be kept of all receipts carried to, and payments made out of, the general rate fund, and where the receipts are receipts for the benefit of a part only of the borough, or the payments are payments in respect of expenditure with which a part only of the borough is chargeable, a separate account shall be kept of receipts and payments in respect of that part of the borough.

(3) If the general rate fund is more than sufficient for the purposes to which it is applicable, the surplus thereof may be applied under the direction of the borough council for the public benefit of the inhabitants and improvement of the borough. [918]

This section is based on L.G.A. 1933, s. 185 (26 Statutes 407).

122. Payments to and out of general rate fund of borough.—(1) All payments to and out of the general rate fund of a borough shall be made to and by the borough treasurer.

(2) Except as otherwise expressly provided in this section, all payments out of the general rate fund shall be made in pursuance of an order of the borough council signed by three members thereof and countersigned by the town clerk, and the same order may include several payments:

Provided that the following payments may be made out of the general rate fund without an order of the council, that is to say, payments made—

(a) in pursuance of the specific requirements of any enactment:

- (b) in pursuance of an order of a competent court or of a justice of the peace acting in discharge of his judicial functions :
- (c) in respect of the remuneration of the mayor or of any officer or other person whose remuneration is payable by the council :
- (d) in respect of the remuneration and allowances certified by the Treasury to be payable to the Treasury in relation to an election petition.

(3) An order for the payment of a sum out of the general rate fund shall not be made by a borough council except in pursuance of a resolution of the council passed on the recommendation of its finance committee :

Provided that this subsection shall not apply to an order for the payment of a sum in pursuance of a precept from another authority.

(4) Any person aggrieved by an order of a borough council made under this section may appeal to the High Court, and on any such appeal the court may give such directions in the matter as it thinks proper, and the order of the court shall be final. [919]

Sub-s. (3) of this section is based on L.C.C.(G.P.) Act, 1934, s. 20 (3) (27 Statutes 412) as applied to borough councils by s. 28 of that Act, and with the addition of the proviso (which corresponds to a similar proviso in the Act of 1934) as to the incurring of a liability over £50, to which subject it does not appear to be appropriate. The remainder of the action is based on L.G.A. 1933, s. 187 (26 Statutes 408).

General

123. Savings for revenues from undertakings, &c.—Nothing in this Part of this Act shall—

- (a) be deemed to require or authorise the county council or a borough council to apply or dispose of the surplus revenue arising from any undertaking carried on by the council otherwise than in accordance with the provisions of any enactment or statutory order relating to the undertaking ; or
- (b) affect the operation of section one of the Roads Act, 1920, or of any Order in Council made thereunder. [920]

This section reproduces L.G.A. 1933, s. 194 (26 Statutes 412). For the Roads Act, 1920, see 19 Statutes 85.

PART VII

BORROWING POWERS OF BOROUGH COUNCILS

Purposes for which, and mode in which, money may be borrowed and security for borrowing

124. Purposes for which money may be borrowed.—(1) A borough council may, with the consent of the sanctioning authority, borrow such sums as may be required for any of the following purposes, that is to say :—

- (a) for acquiring any land which the council has power to acquire ;
- (b) for erecting any building which the council has power to erect ;
- (c) for the execution of any permanent work, the provision of any plant, or the doing of any other thing which the council has power to execute, provide or do, if, in the opinion of the sanctioning authority, the cost of carrying out the purpose in question ought to be spread over a term of years ;
- (d) for any other purpose for which the council is by virtue of any enactment (including any enactment in this Act) or of any statutory order, authorised to borrow.

(2) If the county council, in any case in which the sanction of that council to the borrowing of money by a borough council is required, refuses its sanction, or does not give its sanction within six months after application has been made therefor, or attaches conditions to its sanction, the borough council may appeal to the Minister, whose decision shall be final. [921]

Sub-s. (1) of this section corresponds to L.G.A. 1933, s. 195 (26 Statutes 412—413) omitting those provisions which are not appropriate to London. Sub-s. (2) reproduces the provision to s. 4 (1) of the London Government Act, 1899 (11 Statutes 1227).

125. Mode of borrowing.—Where a borough council is authorised to borrow money, it may raise the money by mortgage in accordance with the provisions of this Part of this Act. [922]

Cf. M.M.A. 1855, s. 183 (11 Statutes 929) and L.G.A. 1933, s. 196 (26 Statutes 413.) This section is not in terms similar to either of the sections quoted; but corresponds to them in the general scheme of the Act.

126. Power to use sinking and other funds instead of borrowing.—

(1) Where a borough council is authorised to borrow money, it may, instead of raising the money by mortgage, use, either as respects the whole or any part of the money to be raised—

(a) so much of the money for the time being forming part of a sinking fund of the council as is available for the repayment of any loan which is secured by a deed constituting a charge on the revenues of the council and which does not appear by the deed to have been raised under a borrowing power conferred for a specific purpose; or

(b) any money for the time being forming part of a reserve fund or superannuation fund of the council and not required for the time being for the purposes of that fund.

(2) Where a borough council, in exercise of its power under this section, uses any money forming part of a sinking fund, the council shall—

(a) credit the sinking fund with the repayment of an amount of the principal money for the repayment of which the fund was established equal to the sum withdrawn from the sinking fund, and thereupon the amount so credited shall be deemed to be principal money discharged by application of the sinking fund;

(b) debit the account of the statutory power to borrow for the purpose for which the money was withdrawn from the sinking fund with an amount of the principal money equal to the sum so withdrawn;

(c) establish a new sinking fund, and make such annual contributions thereto as will ensure that a total sum equivalent to that withdrawn from the original sinking fund will be standing to the credit of the new sinking fund at a date not later than the date fixed for repayment of the loan in respect of which the original sinking fund was established.

(3) Where a borough council, in exercise of its power under this section, uses any money forming part of a reserve fund or superannuation fund, it shall—

(a) repay to the fund the money withdrawn from it within the period, by the methods, and out of the revenues within, by and out of which a loan raised under the statutory power to

borrow would have been repayable if it had been raised by mortgage :

- (b) pay to the fund interest (calculated at the rate hereinafter mentioned) on the money so withdrawn, or on so much thereof as from time to time remains to be repaid to the fund.

The interest to be paid as aforesaid shall be at such rate per cent. per annum as the borough council may determine, being as near as may be the same as the rate which would have been payable on a loan raised by mortgage, and shall be paid out of the revenues which would have been applicable to the payment of interest on a loan so raised.

(4) Where a borough council, in exercise of its power under this section, uses any money forming part of a sinking fund or a reserve fund or superannuation fund, the statutory power to borrow for the purpose for which the money is used shall be deemed to be exercised by the use of the money as fully in all respects as if a loan of the same amount had been raised by mortgage in exercise of the said power, and the provisions of this Part of this Act as to re-borrowing shall apply accordingly.

(5) Where a borough council exercises its powers under this section the council shall furnish to the Minister such information with regard to the exercise of the power as the Minister may require.

(6) The powers conferred on a borough council by this section shall be deemed to be in addition to, and not in derogation of, the powers conferred by section one hundred and thirty-three of the Housing Act, 1936, and by subsection (3) of section twenty-one of the Local Government Superannuation Act, 1937.

(7) References in this section to a statutory power to borrow shall be construed as not including a reference to the power to borrow by way of temporary loan or overdraft. [923]

This section in effect reproduces L.C.C.(G.P.) Act, 1924, s. 55 (11 Statutes 1367—1368). Sub-s. (6) is based on the Acts therein referred to, for which see 29 Statutes 658 and 30 Statutes 404. Authorities in London had power to raise temporary loans by overdraft under the Local Authorities (Financial Provisions Act) 1921, s. 3 (11 Statutes 1344), a provision which has been replaced, except in London by L.G.A. 1933, s. 215 (26 Statutes 422). See also s. 139, *post*.

127. Security for borrowing and ranking of securities.—(1) All money borrowed by a borough council, whether before or after the commencement of this Act, shall be charged indifferently on all the revenues of the council.

(2) Subject to the provisions of this section, all securities created by a borough council, whether under this Act or any other enactment or under any statutory order, shall rank equally without any priority.

(3) Nothing in this section shall—

- (a) apply to any money borrowed by way of temporary loan or overdraft without security ; or
(b) affect any priority existing at, or any right to priority conferred by a security created before, the commencement of this Act. [924]

This section corresponds to L.G.A. 1933, s. 197 (26 Statutes 413—414).

Provisions relating to mortgages

128. Form of mortgage.—A mortgage created by a borough council under this Part of this Act must be made by deed in the prescribed form or in a form to the like effect :

Provided that, in the case of a loan made by the Public Works Loan Commissioners, the mortgage shall be in such form as may be prescribed under the Public Works Loans Acts, 1875 to 1882. [925]

This section corresponds to L.G.A. 1933, s. 205 (26 Statutes 417).

129. Transfer of mortgage.—The person entitled to a mortgage created by a borough council may transfer it by deed in the prescribed form or in a form to the like effect. [926]

This section reproduces L.G.A. 1933, s. 206 (26 Statutes 417).

130. Register of mortgages.—(1) The town clerk of a borough shall keep at the offices of the borough council a register of mortgages created by the council under this Part of this Act (in this Part of this Act referred to as “the register”).

(2) Within fourteen days after the date of a mortgage, the town clerk shall cause an entry to be made in the register of the number and date of the mortgage, of the names and descriptions of the parties thereto, and of the amount borrowed, as stated in the deed of mortgage.

(3) On production to the town clerk of the deed of mortgage, and—

(a) in the case of a transfer of a mortgage, of a duly executed deed of transfer;

(b) in the case of a transmission of a mortgage by the death of a person solely entitled thereto or of the survivor of persons jointly entitled thereto, of probate of the will or letters of administration of the estate of the deceased;

(c) in the case of a transmission of a mortgage otherwise than as aforesaid, of satisfactory evidence of the transmission,

and on payment of such sum, if any, not exceeding five shillings, as the borough council may determine, the town clerk shall cause an entry to be made in the register of the date of the transfer or transmission, and of the name and description of the person who under the transfer or transmission becomes entitled to the mortgage.

(4) Any change of name or address on the part of a person entitled to a mortgage shall forthwith be notified to the town clerk, who, on being satisfied thereof, shall make the necessary alterations in the register.

(5) The Minister may make regulations for enabling entries relating to mortgages, or to transfers and transmissions of mortgages, contained in any register kept by or on behalf of a borough council under any enactment in force at the commencement of this Act to be transferred to the register kept under this section, and for applying, with any necessary modifications, to the mortgages to which the entries relate the provisions of this section in place of the corresponding provisions of that enactment, and for terminating the obligation of the council or of any officer of the council to make entries in the register kept under that enactment.

(6) The register shall be open at all reasonable hours to public inspection without payment.

(7) If any person—

(a) having the custody of the register, refuses to allow any person to inspect the register; or

(b) being required under this section to make an entry in the register, refuses or wilfully neglects so to do,

he shall be liable, on summary conviction, in respect of each offence to a fine not exceeding, in the case of an offence under paragraph (a) of this

subsection, five pounds, and in the case of an offence under paragraph (b) of this subsection, twenty pounds. [927]

This section corresponds to L.G.A. 1933, s. 207 (26 Statutes 417-418). For previous provisions applicable to London, see M.M. Act, 1855, ss. 185, 189 (11 Statutes 930, 932).

131. Title to mortgage and rectification of register.—(1) Where any entries have been duly made in the register in respect of any mortgage, the borough council shall be entitled to treat as exclusively entitled to the mortgage the person appearing by the latest of those entries to be entitled thereto.

(2) If the name of any person is without sufficient cause entered in or omitted from the register, or default is made or unnecessary delay takes place in making any entry required to be made in the register, the High Court or, where the sum involved does not exceed five hundred pounds, the county court, may, on application by the person aggrieved or by the borough council, make an order for the rectification of the register.

(3) On any proceedings under this section, the court may decide any question relating to the title of any party thereto to have his name entered in or omitted from the register and generally any question which it may be necessary or expedient to decide for the purpose of the rectification of the register. [928]

This section corresponds to L.G.A. 1933, s. 208 (26 Statutes 418).

132. Notice of trusts.—No notice of any trust, expressed, implied or constructive, affecting a mortgage created by a borough council shall be entered in the register, or be receivable by the council or by any officer of the council. [929]

This section reproduces L.G.A. 1933, s. 209 (26 Statutes 419).

133. Receipts on behalf of joint holders and infants.—(1) Where two or more persons are jointly entitled to a mortgage created by a borough council, any one of those persons may give an effectual receipt for any interest thereon, unless notice in writing to the contrary has been given to the council by any other of those persons.

(2) The receipt of the guardian of an infant shall be a sufficient discharge to a borough council for any money payable to the infant in respect of a mortgage created by the council. [930]

Cf. L.G.A. 1933, s. 210 (26 Statutes 419).

Redemption of loans

134. Period for repayment of money borrowed.—(1) Every sum borrowed by a borough council under this Part of this Act shall be repaid within such period as the council, with the consent of the sanctioning authority, may determine :

Provided that the period for the repayment of a sum so borrowed shall not exceed, in the case of a sum borrowed for any of the purposes of the Allotments Acts, 1908 to 1931, or of the Housing Acts, 1936 and 1938, eighty years, and, in any other case, sixty years.

(2) Where any sum is borrowed by a borough council for the purpose of meeting expenditure on the construction of new, or the extension or alteration of existing, works forming or to form part of an undertaking of a revenue-producing character, it shall be lawful for any annual provision required to be made by the council for the repayment of the sum so borrowed to be suspended for such period, and subject to such conditions, as the sanctioning authority may determine :

Provided that the period aforesaid shall not be longer than the period during which the expenditure remains unremunerative, or a period of five years from the commencement of the financial year next after the year in which the expenditure commences to be incurred, whichever is the shorter. [931]

This section corresponds to L.G.A. 1933, s. 198 (26 Statutes 414.) See the notes to that section as to the practice.

135. Repayment of money borrowed.—(1) Every sum borrowed by a borough council by way of mortgage shall be paid off either by equal yearly, half-yearly or quarterly instalments of principal, or of principal and interest combined, or by means of a sinking fund, or partly by one of those methods and partly by another or others of them.

(2) Subject to the provisions of subsection (2) of the last preceding section, the payment of the first instalment or the first payment to the sinking fund shall be made within twelve months or, where the money is repayable by half-yearly instalments, within six months, or, where the money is repayable by quarterly instalments, within three months, from the date of borrowing. [932]

This section corresponds to L.G.A. 1933, s. 212 (26 Statutes 420).

136. Sinking fund.—(1) If a borough council determines to repay by means of a sinking fund any sum borrowed under this Part of this Act by way of mortgage, the sinking fund shall be established and maintained either—

- (a) by payment to the fund throughout the fixed period of such equal annual sums as will be sufficient to pay off within that period the money for the repayment of which the sinking fund is established; or
- (b) by payment to the fund throughout the fixed period of such equal annual sums as will, with accumulations at a rate not exceeding the prescribed rate, or such other rate as the Minister may in any particular case approve, be sufficient to pay off within that period the money for the repayment of which the sinking fund is established.

(2) In this Part of this Act a sinking fund established and maintained by such payment as is mentioned in paragraph (a) of subsection (1) of this section is referred to as “a non-accumulating sinking fund”, and a sinking fund established and maintained by such payment as is mentioned in paragraph (b) thereof as “an accumulating sinking fund”.

(3) Every sum paid to a sinking fund shall, unless applied in repayment of the money for the repayment of which the sinking fund was established, or in such other manner as may be authorised by any enactment, be forthwith invested in statutory securities (other than securities created by the borough council) and the borough council may from time to time vary and transpose the investments.

(4) In the case of an accumulating sinking fund, the interest received in any year from the investment of the sums set apart for the purposes of the sinking fund shall form part of the revenue for that year of the general rate fund of the borough, but the contribution to be made to the sinking fund out of the general rate fund shall in that year be increased by a sum equal to the interest that would have accrued to the sinking fund during that year if interest had been accumulated therein at the rate per cent. per annum on which the annual payments to the sinking fund are based.

(5) A borough council may at any time apply the whole or any part of a sinking fund in or towards the discharge of the money for the repayment of which the sinking fund was established :

Provided that, in the case of an accumulating sinking fund, the council shall pay into the fund each year and accumulate during the residue of the fixed period a sum equal to the interest which would have been produced by the sinking fund or the part thereof applied as aforesaid if invested at the rate per cent. per annum on which the annual payments to the sinking fund are based.

(6) Any surplus of a sinking fund remaining after the discharge of the whole of the money for the repayment of which it was established shall be applied to such capital purpose as the borough council, with the consent of the Minister, may determine.

(7) Subsection (3) of this section shall apply to a sinking fund established by a borough council under any enactment for the repayment of moneys borrowed by the council by way of mortgage, and subsections (4), (5) and (6) of this section shall apply to an accumulating sinking fund so established, in like manner as they respectively apply to a sinking fund or an accumulating sinking fund established under this Part of this Act. [938]

This section corresponds generally to L.G.A. 1933, s. 213 (26 Statutes 420—421).

137. Adjustments of sinking fund.—(1) If at any time it appears to a borough council that the amount in a sinking fund, together with the sums which will be payable thereto in accordance with the provisions of this Part of this Act, and, in the case of an accumulating sinking fund, with the accumulations thereon, will not be sufficient to repay within the fixed period the money for the repayment of which the sinking fund was established, the council shall, either temporarily or permanently, make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose, and if it appears to the Minister that any such increase is necessary, the council shall increase the payments to such extent as the Minister may direct.

(2) If a borough council desires to accelerate the repayments of any money borrowed by the council by way of mortgage, they may increase the amounts payable to the sinking fund.

(3) If the amount in a sinking fund, together with the sums which will be payable thereto in accordance with the provisions of this Part of this Act, and also, in the case of an accumulating sinking fund, together with the accumulations thereon, will in the opinion of the Minister be more than sufficient to repay within the fixed period the money for the repayment of which the sinking fund was established, the borough council may reduce the payments to the sinking fund either temporarily or permanently to such amounts as will in the opinion of the Minister be sufficient to repay within the fixed period the money for the repayment of which the sinking fund was established.

(4) If at any time the amount in a sinking fund, together with, in the case of an accumulating sinking fund, the accumulations thereon, will in the opinion of the Minister be sufficient to repay the money for the repayment of which the sinking fund was established within the fixed period, the Minister may authorise the borough council to suspend the annual payments to the sinking fund until the Minister otherwise directs.

(5) This section shall apply to a sinking fund established by a borough council under any other enactment for the repayment of

money borrowed by the council in like manner as it applies to a sinking fund established under this Part of this Act. [934]

This section corresponds to L.G.A. 1933, s. 214 (26 Statutes 421—422).

138. Appointment of receiver.—(1) If at any time any principal money or interest due under a mortgage created by a borough council remains unpaid for a period of two months after demand in writing, the person entitled thereto may, without prejudice to any other remedy, apply to the High Court for the appointment of a receiver, and the court may, if it thinks fit, appoint a receiver on such terms and with such powers as the court thinks fit :

Provided that no such application shall be entertained unless the sums due to the applicant, or in the case of a joint application by two or more persons the sums due to them in the aggregate, amount to not less than five hundred pounds.

(2) The court may confer on the receiver any such powers of collecting, receiving and recovering the revenues of the borough council, and of making, collecting and recovering rates, and of issuing and enforcing precepts, as are possessed by the council or its officers. [935]

This section corresponds to L.G.A. 1933, s. 211 (26 Statutes 419—420).

Supplementary borrowing powers

139. Temporary loans, &c.—(1) A borough council may, without the consent of the sanctioning authority, borrow by way of temporary loan or overdraft from a bank or otherwise, any sums which it may require temporarily—

- (a) for the purpose of defraying expenses (including the payment of sums due by the council to meet the expenses of other authorities) pending the receipt of revenues which are receivable by it in respect of the period of account in which those expenses are chargeable and were taken into account in the estimates made by it for that period ;
- (b) for the purpose of defraying, pending the raising of a loan which the council has been authorised to raise, expenses intended to be defrayed by means of the loan.

(2) Where money is borrowed under paragraph (b) of the preceding subsection and subsequently such a loan as is mentioned in that paragraph is raised, then, for the purpose of the provisions of this Part of this Act regulating the repayment of that loan, the loan shall, to the extent of the sum borrowed under the said paragraph, be deemed to have been raised at the time when the borrowing under the said paragraph took place. [936]

This section corresponds to L.G.A. 1933, s. 215 (26 Statutes 422). See also s. 126 (7), *ante*, and the note thereto.

140. Power to re-borrow.—(1) Subject to the provisions of this section, a borough council may, without the consent of the sanctioning authority, borrow for the purpose of—

- (a) paying off any money previously borrowed by the council which it is intended to repay forthwith ; or
- (b) replacing money which, during the preceding twelve months, has been temporarily applied from other money of the council in repaying money previously borrowed, and which

at the time of the repayment it was intended to replace by borrowed money.

(2) The power to borrow under this section shall not extend so as to authorise borrowing—

- (a) for the purpose of making any payment to a sinking fund or of paying any instalment or making any annual payment which has or may become due in respect of borrowed money ; or
- (b) for the purpose of replacing any money previously borrowed which has been repaid—
 - (i) by instalments or annual payments ; or
 - (ii) by means of a sinking fund ; or
 - (iii) out of money derived from the sale of land ; or
 - (iv) out of any capital money properly applicable to the purpose of the repayment, other than money borrowed for that purpose.

(3) Any money borrowed under this section shall, for the purposes of repayment, be deemed to form part of the original loan, and shall be repaid within that portion of the fixed period which remains unexpired, and the provisions which are for the time being applicable to the original loan shall apply to the money borrowed under this section :

Provided that the authority which sanctioned the original loan may, on an application made to it for that purpose, extend the period for repayment of the money borrowed under this section so that the period shall expire on such date as the authority thinks fit, not being later than the expiration of the maximum period which might have been permitted for the repayment of the original loan. [937]

This section corresponds to L.G.A. 1933, s. 216 (26 Statutes 423). See also M.M.A. 1855, s. 187 (11 Statutes 931).

Miscellaneous

141. Returns to Minister.—(1) The town clerk of a borough shall, within one month after being requested so to do by the Minister, transmit to the Minister a return showing the provision made by the borough council for the repayment of moneys borrowed by the council.

(2) A return under this section shall contain such particulars, shall be made up to such date and shall be in such form, as the Minister may require.

(3) A return under this section shall be certified by the borough treasurer or other person whose duty it is to keep the accounts of the borough council, and shall, if so required by the Minister, be verified by a statutory declaration made by that person.

(4) If it appears to the Minister from any return made under this section or otherwise that a borough council—

- (a) has failed to pay any instalment or annual payment required to be paid ; or
- (b) has failed to appropriate to the discharge of any loan any sum required to be so appropriated ; or
- (c) has failed to set apart any sum required for a sinking fund ; or
- (d) has applied any portion of a sinking fund to a purpose other than those authorised ;

the Minister may by order direct that such sum as is specified in the order, not exceeding the amount in respect of which default has been made or which has been misapplied, shall be paid or applied in the

manner and by the date set out in the order, and the council shall notify the Minister as soon as the order has been complied with.

(5) An order made under the last preceding subsection may be enforced, at the instance of the Minister, by an order of mandamus.

(6) If a return required to be made under this section is not made, the person in default shall be liable on summary conviction to a fine not exceeding twenty pounds, and notwithstanding the recovery of any such fine the making of the return may be enforced, at the instance of the Minister, by an order of mandamus.

(7) The provisions of this section shall be in substitution for, and not in addition to, any requirement under any other enactment or statutory order to make a return as to the provision made by a borough council for the repayment of borrowed money. [938]

This section corresponds to L.G.A. 1933, s. 199 (26 Statutes 415). See also s. 174, *post*.

142. Charge of service of loan to particular account.—Where a loan is raised to meet any expenditure of a borough council which is chargeable to a particular account, there shall be debited to that account all sums required for repayment of the principal of the loan, or for payment of interest thereon, or for making payments to any sinking fund established for the purposes thereof. [939]

Cf. L.G.A. 1933, s. 200 (26 Statutes 415—416).

143. Balance of unexpended money.—The balance of any money borrowed by a borough council and not required for the purposes for which the money was borrowed may, with the consent of the sanctioning authority, and subject to any conditions which that authority may impose, be applied to any other purpose for which capital money may be applied :

Provided that nothing in this section shall dispense with the necessity of the consent of the Public Works Loan Commissioners in any case in which their consent is required under section nine of the Public Works Loans Act, 1881. [940]

This section reproduces L.G.A. 1933, s. 202 (26 Statutes 416).

144. Lenders relieved from certain inquiries.—A person lending money to a borough council shall not be bound to inquire whether the borrowing of the money is or was legal or regular or whether the money raised was properly applied, and shall not be prejudiced by any illegality or irregularity in the matters aforesaid or by the misapplication or non-application of the money. [941]

This section reproduces L.G.A. 1933, s. 203 (26 Statutes 416). See also M.M.A.A. 1862, s. 19 (11 Statutes 969).

145. Definitions.—In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them—

“Fixed period” means, in relation to any money borrowed, the period originally fixed as the period within which the money is to be repaid ;

“Revenues”, in relation to a borough council, includes the general rate fund of the borough, and all rates, exchequer contributions and other revenues, whether arising from land or undertakings or from any other source, receivable by the council ;

“Sanctioning authority” means—

(a) in the case of money borrowed for the purposes of the Electricity (Supply) Acts, 1882 to 1936, or of any other enactment or statutory order relating to the supply of electricity, the Electricity Commissioners ;

(b) in the case of money borrowed for the purpose of any enactment or statutory order which requires the sanction or consent of the Minister to the borrowing of money for that purpose, the Minister ;

(c) in any other case, the county council ;

"Statutory securities" means any security in which trustees are for the time being authorised by law to invest trust money, and any mortgage, bond, debenture, debenture stock, stock or other security created by a local authority, whether a local authority for the purposes of this Act or for the purposes of the Local Government Act, 1933, other than annuities, rent-charges, or securities transferable by delivery. [942]

Subject to modification in pars. (b) and (c) of the definition of "sanctioning authority," these definitions are in terms identical with those in L.G.A. 1933, s. 218 (26 Statutes 424).

PART VIII

BYELAWS

Power of Local Authorities to make Byelaws

146. Byelaws for good rule and government and suppression of nuisances.—(1) A local authority may make byelaws for the good rule and government of the whole or any part of its area and for the prevention and suppression of nuisances therein :

Provided that a byelaw made under this section by a borough council shall not be inconsistent with a byelaw so made by the county council which is in force in any part of the borough.

(2) The confirming authority in relation to byelaws made under this section shall be the Secretary of State, except that as respects byelaws relating to public health or to any other matter which, in the opinion of the Secretary of State and of the Minister, concerns the functions of the Minister rather than those of the Secretary of State the confirming authority shall be the Minister.

(3) The validity of a byelaw made under this section and confirmed by the Secretary of State or by the Minister shall not be questioned in any legal proceedings on the ground that the Secretary of State or the Minister, as the case may be, is not the confirming authority in relation to that byelaw.

(4) Where by or under any enactment in force in the county or in any part thereof provision is made for the prevention and suppression in a summary manner of any nuisance, power to make byelaws under this section for that purpose shall not be exercisable as respects the county or such part thereof, as the case may be, in respect of that nuisance. [943]

This section corresponds generally to L.G.A. 1933, s. 249 (26 Statutes 439—440). The proviso to sub-s. (1) preserves, and gives an overriding effect to, the county councils byelaws in the areas of metropolitan boroughs. Outside London, by a corresponding proviso to s. 249 (1) of L.G.A. 1933, byelaws made by a county council under that section have no effect in a borough.

Sub-s. (5) of s. 249 (1) giving urban and rural district councils power to enforce the good rule and government byelaws of the county council is not reproduced.

Procedure, Penalties, &c.

147. Procedure, &c. for making byelaws.—(1) The following provisions of this section shall apply to byelaws to be made by a local authority under—

- (a) this Act ; or
- (b) the Metropolis Management Acts, 1855 to 1893 ; or
- (c) any enactment or statutory order in force at the date of the commencement of this Act and incorporating or applying the provisions of sections two hundred and two and two hundred and three of the Metropolis Management Act, 1855, or sections one hundred and eighty-two to one hundred and eighty-six of the Public Health Act, 1875, or any of those sections, or section one hundred and fourteen of the Public Health (London) Act, 1891, or section twenty-three of the Municipal Corporations Act, 1882, or section sixteen of the Local Government Act, 1888, or subsection (2) of section five of, and Part II of the Second Schedule to, the London Government Act, 1899 ; or
- (d) except as otherwise expressly provided therein, any enactment passed after the twenty-eighth day of June nineteen hundred and thirty-four and conferring on the local authority a power to make byelaws.

(2) Any such byelaws as aforesaid must be made under the common seal of the local authority and shall not have effect until they are confirmed by the confirming authority.

(3) In the case of byelaws made by the county council under any enactment which requires that the byelaws shall be observed and enforced by a borough council, the county council shall, not less than two months before applying to the confirming authority for confirmation of the byelaws, send a copy of the proposed byelaws to the borough council, and shall consider any representations made to it by the borough council.

(4) At least one month before application for confirmation of the byelaws is made, notice of the intention to apply for confirmation shall be given in one or more local newspapers circulating in the area to which the byelaws are to apply and in the London Gazette.

(5) For at least one month before application for confirmation of the byelaws is made, a copy of the byelaws shall be deposited at the offices of the authority by which the byelaws were made, and shall at all reasonable hours be open to public inspection without payment.

(6) The local authority by which the byelaws were made shall, on application, furnish to any person a copy of the byelaws, or of any part thereof, on payment of such sum, not exceeding sixpence for every hundred words contained in the copy or ten shillings, whichever sum is the less, as the authority may determine.

(7) The confirming authority may confirm, or refuse to confirm, a byelaw submitted under this section for confirmation, and may fix the date on which the byelaw is to come into operation, and if no date is so fixed the byelaw shall come into operation on the expiration of one month after the date of its confirmation.

(8) A copy of the byelaws, when confirmed, shall be printed and deposited at the offices of the authority by which the byelaws were made, and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall, on application, be furnished

to any person on payment of such sum, not exceeding one shilling for every copy, as the authority may determine.

(9) The clerk of the county council shall send a copy of every byelaw made by the county council and confirmed to every borough council, and the town clerk of a borough shall send a copy of every byelaw made by the borough council and confirmed to the county council.

(10) In this section the expression “the confirming authority”—

- (a) means the authority or person, if any, specified in the enactment (including any enactment in this Act) under which the byelaws are made, or in any enactment incorporated therein or applied thereby, as the authority or person by whom the byelaws are to be confirmed; or
- (b) if no authority or person is so specified, or if the byelaws are byelaws made under an enactment which incorporates or applies section twenty-three of the Municipal Corporations Act, 1882, or section sixteen of the Local Government Act, 1888, or subsection (2) of section five of, and Part II of the Second Schedule to, the London Government Act, 1899, means the Secretary of State or, if the subject-matter of the byelaws is such that the Minister would have been the confirming authority if they had been made under the last preceding section of this Act, the Minister:

Provided that, where under or by virtue of any enactment the power of confirming byelaws vested in any authority or person specified as aforesaid has become vested in some other authority or person, this subsection shall have effect as if a reference to that other authority or person were substituted for the reference to the authority or person so specified. [944]

This section, with modifications to make it appropriate to London, corresponds to L.G.A. 1933, s. 250 (26 Statutes 440—442). See also L.C.C.(G.P.) Act, 1934, s. 38 (27 Statutes 422—424) 28th June, 1934, was the date of the passing of L.C.C.(G.P.) Act, 1934. For ss. 202, 203, of M.M.A. 1855, see 11 Statutes 934, 935. For ss. 182—186 of P.H.A. 1875, see 13 Statutes 704—706, and for s. 23 of the Municipal Corporations Act, 1882, see 10 Statutes 584.

148. Offences against byelaws.—Byelaws to which the last preceding section applies may contain provisions for imposing on persons offending against the byelaws reasonable fines, to be recoverable on summary conviction, not exceeding such sum as may be fixed by the enactment conferring the power to make the byelaws, or, if no sum is so fixed, the sum of five pounds, and in the case of a continuing offence a further fine not exceeding such sum as may be so fixed, or, if no sum is so fixed, the sum of forty shillings for each day during which the offence continues after conviction therefor. [945]

This section corresponds to L.G.A. 1933, s. 251 (26 Statutes 442).

149. Evidence of byelaws.—The production of a printed copy of a byelaw purporting to be made by a local authority on which is endorsed a certificate, purporting to be signed by the clerk of the authority or by such other officer of the authority as may be duly authorised in that behalf, stating—

- (a) that the byelaw was made by the local authority;
- (b) that the copy is a true copy of the byelaw;
- (c) where the byelaw requires confirmation, that on a specified date

- the byelaw was confirmed by the authority or person named in the certificate, being the proper confirming authority ;
- (d) where the byelaw is required to be submitted to, but not to be confirmed by, any authority or person, that the byelaw was on a specified date duly submitted to the authority or person named in the certificate and has not been disallowed ; and
 - (e) the date, if any, fixed by the confirming authority for the coming into operation of the byelaw ;

shall, without proof of the handwriting or official position of the person purporting to sign the certificate, be *prima facie* evidence of the facts stated therein. [946]

This section corresponds to L.G.A. 1933, s. 252 (26 Statutes 252).

PART IX

PROMOTION OF, AND OPPOSITION TO, BILLS IN PARLIAMENT

150. Power of county council to promote Bill for improvement of county, &c.—The county council may promote a Bill in Parliament for the purpose of—

- (a) any work for the improvement of the county or public benefit of the inhabitants of the county ;
- (b) the provision of parks, pleasure grounds, places of recreation and open spaces ;

and may defray the expenses incurred in relation thereto. [947]

The Metropolitan Board of Works had power under M.M. Act, 1855, s. 144 (11 Statutes 920) to apply to Parliament for the purpose of works for the improvement of the Metropolitan, and by M.M.A.A. 1856, s. 10 (*ibid.*, 960) this power was explained to extend to applications for the purpose of providing parks, etc. These powers were inherited by the L.C.C., who had of course also the power of *opposing* Bills conferred on all county councils by L.G.A. 1888, s. 15 (10 Statutes 698) subject to the provisions of the Borough Funds Act, 1872 (*ibid.*, 559) thereby applied. In 1903, by the County Councils (Bills in Parliament) Act, 1903 (*ibid.*, 835), county councils were given power to *promote* bills, the provisions of L.G.A. 1888, s. 15 being extended, and this power was expressly provided to be in addition to, and not in derogation of, any powers possessed by the L.C.C. (s. 1 (4), *ibid.*, 836).

The position resulted that the L.C.C. was exempt from the provisions of the Borough Funds Acts, 1872 and 1903, in relation to the promotion of Bills for the purposes mentioned in M.M. Acts, 1855 and 1856, which are the purposes now more concisely stated in the present section, but was required to comply with those provisions in relation to the promotion of Bills for other purposes. The distinction is an entirely artificial one, due to the Borough Funds Act, 1872 being a later statute than the earlier Metropolitan Management Acts, but it is preserved in this Act, the present section re-enacting the powers of the M.M. Acts, and the following sections reproducing *inter alia* the remainder of the council's powers to promote and oppose Bills and the provisions of the Borough Funds Acts, 1872 and 1903.

151. Power to promote or oppose Bill.—(1) Where a local authority is satisfied that it is expedient to promote or oppose a Bill in Parliament, it may, subject to the following provisions of this section, promote or oppose the Bill accordingly, and may defray the expenses incurred in relation thereto :

Provided that nothing in this section shall authorise the promotion of a Bill for the establishment of any gas or water works to compete with any existing gas or water company established under an Act of Parliament.

(2) A resolution to promote or oppose a Bill under this section shall not be effective unless passed by a majority of the whole number of the members of the local authority at a meeting thereof held after ten clear days' notice of the meeting and of the purpose thereof (which notice shall be in addition to the ordinary notice required to be given for the

convening of a meeting of the authority) has been given by advertisement in one or more local newspapers circulating in the area of the authority.

(3) In the case of the promotion of a Bill, the resolution shall be published in one or more local newspapers circulating in the area, and shall be submitted to the Minister for his approval, and the local authority shall not proceed with the promotion of the Bill if the Minister notifies the authority that he disapproves the resolution.

The approval of the Minister under this subsection shall not be given until the expiration of seven days after the publication of the resolution, and in the meantime any local government elector for the county or for the borough, as the case may be, may give notice in writing to the Minister of his objection thereto.

(4) In the case of the promotion of a Bill, a further meeting of the local authority shall be held as soon as may be after the expiration of fourteen days after the Bill has been deposited in Parliament, and, unless the propriety of the promotion is confirmed by a majority of the whole number of the members of the authority at that meeting, the authority shall take all necessary steps to withdraw the Bill.

Not less than ten clear days before the date of a meeting to be held under this subsection, the like notice shall be given in relation thereto as is required to be given in relation to a meeting held under subsection (2) of this section.

(5) No expenses incurred in the promotion of, or opposition to, a Bill under this section, being expenses which are liable to be taxed under the Parliamentary Costs Acts, 1847 to 1879, shall be charged to the funds of the local authority unless they have been so taxed and allowed.

(6) No payment shall be made by a local authority to a member of the authority for acting as counsel or agent in promoting or opposing a Bill under this section.

(7) The provisions of this section shall not be taken to prejudice the powers conferred on the county council by the last preceding section, and shall not apply in relation to a Bill promoted by the county council in the exercise of those powers. [948]

See note to the previous section. This section corresponds generally to L.G.A. 1933, ss. 253, 254, 256 (26 Statutes 443—445).

152. Promotion of Bills by borough councils.—(1) The promotion of a Bill by a borough council shall be subject to the approval of the local government electors of the borough, and for this purpose the provisions contained in the Sixth Schedule to this Act with respect to meetings and polls of local government electors shall have effect.

(2) If the result of a poll under the provisions of the Sixth Schedule to this Act, or the decision of a meeting when final thereunder, is against the promotion of a Bill, or of any provisions of a Bill, the borough council shall take all necessary steps to withdraw the Bill or the provision, as the case may be, against which the poll has resulted or the decision of the meeting has been given.

(3) Failure to comply with any of the requirements of the Sixth Schedule to this Act as to notices, or the time within which anything is to be done, or the procedure at a meeting or the mode of taking a poll, shall not render unauthorised the promotion of the Bill if the provisions of that Schedule have been substantially complied with and the failure has not affected the result of the proceedings thereunder. [949]

This section corresponds to L.G.A. 1933, s. 225 (26 Statutes 444).

153. Expenses of county council.—The county council may determine that any expenses incurred by it in the promotion of or opposition to a Bill under this Part of this Act shall be treated as expenses for special county purposes. [950]

154. Saving for existing powers, &c.—Nothing in this Part of this Act shall take away or diminish any right of a local authority to oppose a Bill in Parliament which apart from this Act would be exercisable by the authority. [951]

These two sections correspond to L.G.A. 1933, ss. 257 (1) and 258 (1) (26 Statutes 445)

PART X

GENERAL PROVISIONS

Offices, Buildings, &c.

155. Provision of offices, &c.—A local authority may provide and furnish halls, offices and other buildings, whether within or without its area, to be used for the purpose of transacting the business of the authority and for public meetings and assemblies. [952]

This section corresponds to L.G.A. 1933, s. 125 (1) (26 Statutes 372). See also M.M.A. 1855, s. 66 (11 Statutes 895) and L.G.A. 1888, s. 65 (1) (10 Statutes 739).

156. Acquisition of buildings or places of historical interest, &c.—The county council may acquire by agreement any building or place of historical or architectural interest, or may undertake, or contribute towards, the cost of preserving, maintaining and managing any such building or place as aforesaid. [953]

This section reproduces L.C.C.(G.P.) Act, 1898, s. 60 (11 Statutes 1224).

157. Acquisition of buildings for works of art, &c.—(1) The county council may acquire, by agreement, any work of art, and may erect and maintain, or contribute towards the provision, erection and maintenance of, any work of art in any place within the county.

(2) For the purpose of providing for the accommodation, exhibition and preservation of works of art or objects of historical, antiquarian or other public interest which may for the time being be in the possession of the county council by virtue of any gift, loan, or discovery, the council may adapt, furnish and maintain any premises given to, and for the time being vested in, the council for the purposes of this section.

(3) The county council may let any building vested in it as aforesaid on such terms and conditions as to payment or otherwise as it thinks fit, and may make charges for admission to any such building which may for the time being be under its management and control. [954]

This section is also based on L.C.C.(G.P.) Act, 1898, and on L.C.C.(G.P.) Act, 1906, s. 30 (11 Statutes 1224, 1279).

158. Provision, &c. of public clocks.—(1) A borough council may provide clocks and (subject, in the case of a building which is not vested in the council, to the consent of the owner or occupier of the building) may affix them to any building within the borough.

(2) A borough council may maintain and light any clock provided by the council under this section or under the corresponding provision of any enactment repealed by this Act, or, with the consent of the owner thereof, any other clock within the borough. [955]

This section is based on L.C.C.(G.P.) Act, 1903, s. 65 (11 Statutes 1253).

Freemen

159. Honorary freemen of boroughs.—(1) A borough council may, by a resolution passed by not less than two-thirds of the members voting thereon at a meeting of the council specially convened for the purpose with notice of the object, admit to be honorary freemen of the borough persons of distinction and any persons who have rendered eminent services to the borough.

(2) The town clerk shall keep a list, called the "freemen's roll", and shall enter thereon the name of every person admitted to be an honorary freeman of the borough.

(3) A borough council may expend such reasonable sum as it thinks fit for the purpose of presenting an address or a casket containing an address to a person admitted to be an honorary freeman of the borough.

[956]

This section corresponds to L.G.A. 1933, ss. 259 (2), 260 (26 Statutes 445—446). See also L.C.C.(G.P.) Act, 1927, s. 62 (11 Statutes 1398). Sub-s. (3) appears to be new.

Contracts

160. Contracts of local authorities.—(1) A local authority may enter into contracts necessary for the discharge of any of its functions.

(2) All contracts made by a local authority or by a committee thereof shall be made in accordance with the standing orders of the authority, and in the case of contracts for the supply of goods or material^c or for the execution of works the standing orders shall—

(a) require that, except as otherwise provided by or under the standing orders, notice of the intention of the authority or committee, as the case may be, to enter into the contract shall be published and tenders invited; and

(b) regulate the manner in which any such notice as aforesaid shall be published and tenders invited:

Provided that a person entering into a contract with a local authority shall not be bound to inquire whether the standing orders of the authority which apply to the contract have been complied with, and all contracts entered into by a local authority, if otherwise valid, shall have full force and effect notwithstanding that the standing orders applicable thereto have not been complied with. [957]

This section corresponds to L.G.A. 1933, s. 266 (26 Statutes 447—448).

Conferences, &c.

161. Conferences of local authorities.—A local authority may, in such cases and subject to such conditions as may be prescribed, pay any reasonable expenses incurred by members or officers of the authority or of any committee thereof in attending a conference or meeting convened by one or more local authorities (whether local authorities for the purposes of this Act or for the purposes of the Local Government Act, 1933) or by any association of local authorities, for the purpose of discussing any matter connected with the discharge of the functions of the authority, and any reasonable expenses incurred in purchasing reports of the proceedings of any such conference or meeting as aforesaid:

Provided that nothing in this section shall affect the provisions of any other enactment for the time being in force authorising the payment of expenses incurred by members or officers of a local authority in attending a conference or meeting, or authorise a local authority to

defray any expenses to which that enactment applies except in accordance with the provisions of that enactment. [958]

This section corresponds to L.G.A. 1933, s. 267 (26 Statutes 449).

162. Contributions to associations, &c.—The county council may make contributions to the funds, or towards the expenses of, any association, committee, council, conference, or other organisation dealing with any matter connected with any service of, or of general interest to, the council:

Provided that the aggregate amount of contributions paid under this section in respect of any financial year shall not exceed one thousand pounds. [959]

This section reproduces L.C.C.(G.P.) Act, 1921, s. 30 (11 Statutes 1356).

Travelling Expenses, &c.

163. Travelling expenses of members and committees of borough councils.—(1) A borough council may pay the reasonable expenses incurred by the council in conveying members of the council, or of any committee thereof, or of any sub-committee of any such committee, for the purpose of enabling them to carry out any inspection necessary for the discharge of the functions of the council or of the committee or sub-committee:

Provided that such expenses shall not exceed the cost of conveying the members between the town hall of the borough and the place visited.

(2) No expenses which a borough council has, apart from this section, power to defray shall be defrayed under this section, and this section shall not affect any such power.

(3) This section shall apply to a joint committee or joint board of which the borough council is a constituent authority as if the joint committee or joint board were a committee of the council. [960]

This section reproduces L.C.C.(G.P.) Act, 1934, s. 62 (27 Statutes 433). Cf. L.G.A. 1933, s. 294 (26 Statutes 462).

Note that the L.C.C. has a wider power under L.C.C.(G.P.) Act, 1939, s. 73 (*post*).

Acceptance of Gifts

164. Acceptance of gifts of property.—(1) Subject to the provisions of this section, a local authority may accept, hold and administer any gift of property, whether real or personal, for any public purpose connected with its area, or for the benefit of the inhabitants of its area or of some part thereof, and may execute any works (including works of maintenance or improvement) incidental to or consequential on the exercise of the powers conferred by this section.

(2) Where the purposes of the gift are purposes for which the local authority is empowered to expend money raised from a rate, it may, subject to any condition or restriction attaching to the exercise of that power, defray expenditure incurred in the exercise of the powers conferred by the last preceding subsection out of money so raised.

(3) This section shall not authorise the acceptance by a local authority of property which, when accepted, would be held in trust for an ecclesiastical charity or for an eleemosynary charity.

(4) The powers conferred on a local authority by this section shall be in addition to and not in derogation of any other powers exercisable by the authority. [961]

This section is based on L.G.A. 1933, s. 268 (26 Statutes 449).

*Transfer of Powers***165. Transfer to county council of powers of public bodies, &c.—**

(1) The Minister may, by provisional order, transfer to the county council any functions of any conservators or other public body being functions conferred on that body by or in pursuance of any enactment and arising within the county.

(2) If such functions of any conservators or other public body arise partly within and partly outside the county, those functions may be transferred jointly to the county council and to the council of any other county or county borough in which the functions arise, and may be exercised and discharged by a joint committee of those councils.

(3) Before an order is made under this section, a draft thereof shall be approved by the conservators or other public body affected thereby.

(4) A provisional order made under this section may contain such incidental, consequential and supplemental provisions as appear necessary or proper for carrying the transfer into effect.

(5) Nothing contained in this section shall authorise the transfer of any functions of the common council of the City of London or a borough council or of any authority being a local authority within the meaning of the Local Government Act, 1933. [962]

This section corresponds to L.G.A. 1933, s. 270 (26 Statutes 450).

166. Transfer of functions as between county council and borough councils, &c.—(1) The Minister may, on the application of the county council or of any association or committee which is in his opinion representative of borough councils, by order provide—

(a) for the transfer to all borough councils of any functions exercisable by the county council ;

(b) for the exercise by any such borough council as may be specified in the order, as agents for the county council, of any functions of the county council :

Provided that no functions relating to the relief of the poor exercisable by the county council shall be transferred under this subsection.

(2) Before making an order under the preceding subsection, the Minister shall, in the case of an application made by the county council, consult such association or committee as aforesaid, and, in the case of an application made by the association or committee, consult the county council.

(3) The Minister may, on the joint application of the county council and of a majority of the borough councils, by order provide for the transfer to the county council of any functions exercisable by borough councils.

(4) An order may under this section may, if the common council of the City of London consents, apply to that council in like manner as it applies to a borough council and accordingly any reference in this section to a borough council shall be construed as including a reference to the common council

(5) An order made under this section may contain such incidental, consequential or supplemental provisions as may appear necessary or proper for the purposes of the order, and may be altered or revoked by an order made in like manner and subject to the like provisions as the original order.

(6) If within fourteen days after an order has been made under this subsection objection thereto is made by any council concerned and is

not withdrawn, the order shall be provisional only and shall not have effect until it is confirmed by Parliament.

(7) An order made under this section, other than an order which is provisional only, shall be laid before each House of Parliament as soon as may be after it is made. [963]

This section is based on London Government Act, 1899, s. 5 (3), (4) (11 Statutes 1228) and L.G.A. 1929, ss. 64, 131 (10 Statutes 927, 969).

167. Provisions in case of transfer of officers.—(1) The provisions of section one hundred and fifty of, and the Fourth Schedule to, the Local Government Act, 1933 (which relate to the transfer and compensation of officers of a local authority affected by an order made under Part VI of that Act), shall have effect in relation to any provisional order or order made in pursuance of either of the last two preceding sections as they have effect in relation to an order made under the said Part VI, and where, by virtue or in consequence of any provisional order or order made in pursuance of either of the two last preceding sections, officers of one authority who are entitled as such to the benefits of a superannuation enactment will be transferred to the service of another authority, there shall be included in the provisional order or order, as the case may be, such provisions as may be necessary for the purpose of protecting the rights and interests of those officers in respect of superannuation, and such provisions may include—

- (a) provisions for securing that the superannuation enactment to the benefits of which an officer was entitled immediately before his transfer shall continue to apply to him subject to such modifications and adaptations as the Minister may determine; or
- (b) provisions for applying to the officer, subject to such modifications and adaptations as the Minister may determine, any superannuation enactment to the benefits of which any officers of the authority to whom the officer is transferred are entitled.

(2) In this section the expression “authority” means a local authority, the common council of the City of London, any conservators or any other public body; the expression “superannuation enactment” means an enactment, including a scheme made thereunder, by virtue of which persons employed by an authority become entitled to superannuation benefits on retirement; and for the purposes of this section any reference in the relevant provisions of the Local Government Act, 1933, to a local authority shall be construed as a reference to an authority as herein defined. [964]

This is a direct incorporation of L.G.A. 1933, s. 150 (26 Statutes 388).

Transfer of Stock

168. Transfer of stock.—(1) Where any stock is standing in the books of a company in the name of a local authority, the following provisions shall have effect:—

- (a) if the name of the authority is changed, then on the request of that authority and on production of a statutory declaration by the clerk of the authority specifying the stock and verifying the change of name and identity of the authority, the company shall enter the stock in the new name of the authority in like manner as if the stock had been transferred to the authority under that name;

(b) if any other public body has become entitled to the stock or any dividends thereon, the court may on application make an order vesting in that other public body the right to transfer the stock or to receive the dividends, and the Trustee Act, 1925, shall apply in like manner as if the vesting order were made under section fifty-one of that Act.

(2) In this section, the expression—

“Company” includes the Bank of England and any company or person keeping books in which any stock is registered or inscribed;

“Stock” includes any share, annuity or other security.

(3) The jurisdiction of the court under this section may be exercised by the High Court or, in cases in which a palatine court or county court would have jurisdiction if the application were an application made under the Trustee Act, 1925, by that court. [965]

This section corresponds to L.G.A. 1933, s. 275 (26 Statutes 451—452).

Deposit, Inspection, &c., of Documents

169. Custody of records, &c.—(1) Subject to the directions of the county council, the clerk of the county council shall have the charge and custody of, and be responsible for, all records and documents of the county or belonging to the council, except such records and documents as relate to the court of quarter sessions of the county of London or to the justices of that county out of sessions.

(2) Subject to the directions of the borough council, the town clerk of a borough shall have the charge and custody of, and be responsible for, all records and documents of the borough or belonging to the council. [966]

This section corresponds to L.G.A. 1933, s. 279 (26 Statutes 453).

170. Deposit of plans, &c.—(1) In any case in which a map, plan, or other document of any description is deposited with the clerk of the county council or the town clerk of a borough, pursuant to the standing orders of either House of Parliament or to any enactment (including any enactment in this Act) or statutory order, he shall receive and retain the document in the manner and for the purposes directed by the standing orders or enactments or statutory order and shall make such memorials and endorsements on, and give such acknowledgments and receipts in respect of, the document, as may be so directed.

(2) Subject to any provisions to the contrary in any other enactment or statutory order, a person interested in any map, plan or other document deposited as aforesaid may, at all reasonable hours, inspect and make copies thereof or extracts therefrom on payment to the person having custody thereof of the sum of one shilling for every such inspection, and of the further sum of one shilling for every hour during which the inspection continues after the first hour.

(3) If a person having the custody of any map, plan or other document as aforesaid obstructs any person in inspecting the document or making a copy thereof or extract therefrom, he shall in respect of each offence be liable on summary conviction to a fine not exceeding five pounds. [967]

This section corresponds to L.G.A. 1933, s. 280 (26 Statutes 453—454).

171. Custody of parochial documents.—(1) The custody of registers of baptisms, marriages and burials, and of all other books and documents

containing entries wholly or in part relating to the affairs of the church or to ecclesiastical charities, except documents directed by law to be kept with the public books, writings, and papers of a parish, shall remain as provided by the existing law unaffected by this Act.

(2) All other public books, writings and papers of a parish, and all documents directed by law to be kept therewith, shall either remain in their existing custody or be deposited in such custody as may be directed by the council of the borough in which the parish is situate.

(3) The incumbent and churchwardens on the one part, and the borough council on the other, shall have reasonable access to all such books, documents, writings and papers as are referred to in this section, and any difference as to such custody or access shall be determined by the county council. [968]

This section corresponds to L.G.A. 1933, s. 281 (26 Statutes 454—455).

172. Provision of depository for parochial documents.—A borough council shall provide proper depositories for all the public books, writings, papers and documents belonging to a parish situate within the borough for which no provision is otherwise made. [969]

This section corresponds to L.G.A. 1933, s. 282 (1) (26 Statutes 455).

173. Inspection of documents.—(1) The minutes of proceedings of a local authority shall be open to the inspection of any local government elector for its area on payment of a fee not exceeding one shilling, and any such local government elector may make a copy thereof or an extract therefrom.

(2) Every voting paper used at an election of a county alderman or of a borough alderman shall, during the period of six months following the date of the election, be open to the inspection of any local government elector for the county or for the borough, as the case may be.

(3) An order for the payment of money made by a local authority shall be open to the inspection of any local government elector for its area, and any such local government elector may make a copy thereof or an extract therefrom.

(4) The accounts of the county council and of the county treasurer shall be open to the inspection of any member of the county council, and the accounts of a borough council and of the borough treasurer shall be open to the inspection of any member of the borough council, and any member of the county council or of a borough council may make a copy of, or take an extract from the accounts so open to his inspection.

(5) The abstract of the accounts of a local authority and of the county treasurer or a borough treasurer, and any report made by an auditor on those accounts, shall be open to the inspection of any local government elector for the county or for the borough, as the case may be, and any such local government elector may make a copy thereof or an extract therefrom, and copies thereof shall be delivered to any such local government elector on payment of a reasonable sum for each copy.

(6) A document directed by this section to be open to inspection shall be so open at all reasonable hours, and, except where otherwise expressly provided, without payment.

(7) If a person having the custody of any document mentioned in this section—

(a) obstructs any person entitled to inspect the document or to make a copy thereof or extract therefrom in inspecting the document or making a copy or extract; or

(b) refuses to give copies or extracts to any person entitled to obtain copies or extracts,
he shall in respect of each offence be liable on summary conviction to a fine not exceeding five pounds. [970]

This section corresponds to L.G.A. 1933, s. 238 (26 Statutes 455—456).

Reports and Returns

174. Reports and returns.—Every local authority, and every joint committee or joint board appointed jointly by two or more local authorities, shall make to the Secretary of State or to the Minister such reports and returns, and give him such information with respect to its functions, as he may require or as may be required by either House of Parliament. [971]

This section reproduces L.G.A. 1933, s. 284 (26 Statutes 456). See also L.G.A. 1888, s. 83 (12) (10 Statutes 755) and L.G.A. 1929, s. 51 (1) (*ibid.*, 920), both of which provisions were repealed by L.G.A. 1933. See also s. 141, *ante*, and L.G.A. 1933, Part XI (26 Statutes 437 *et seq.*).

175. Annual reports of borough councils.—(1) As soon as practicable after the end of every financial year, and not later than the thirtieth day of September next following, a borough council shall publish a report of its proceedings for that year, together with a copy of the return of the income and expenditure of the council in respect of that year made under Part XI of the Local Government Act, 1933, and such other information in respect of that year as may be prescribed by the Minister.

(2) A copy of the report and of the abstract of accounts included in the said return and of such other information as aforesaid shall, as soon as published, be sent to the Minister and to the county council, and shall be supplied by the borough council to any person applying for the same on payment of such sum, not exceeding one shilling, as may be fixed by the borough council. [972]

This section is based on L.C.C.(G.P.) Act, 1929, s. 61 (11 Statutes 1425). Part XI of L.G.A. 1933, ss. 244—248 (26 Statutes 437—439) deals with local financial returns and by s. 248 (*ibid.*, 439) is made applicable to London.

Legal Proceedings

176. Power to prosecute or defend legal proceedings.—A local authority may prosecute or defend any legal proceedings where it deems it expedient so to do for the promotion or protection of the interests of the inhabitants of its area. [973]

This section is based on L.G.A. 1933, s. 276 (26 Statutes 452) which replaced provisions of the Borough Funds Act, 1872, repealed as to London by that Act.

177. Appearance of local authority in legal proceedings.—A local authority may by resolution authorise any officer of the authority, either generally or in respect of any particular matter, to institute or defend on its behalf proceedings before a court of summary jurisdiction, or to appear on its behalf before a court of summary jurisdiction in any proceedings instituted by the local authority or on its behalf or against the authority, and any officer so authorised shall be entitled to institute or defend any such proceedings as aforesaid and, notwithstanding anything contained in the Solicitors Act, 1932, to conduct the proceedings although he is not a certificated solicitor. [974]

This section corresponds to L.G.A. 1933, s. 277 (26 Statutes 452—453). Authority must be given before proceedings are instituted by an officer. See *Bowyer, Philpott and Payne, Ltd. v. Mather*, [1919] 1 K. B. 419; 33 Digest 24, 106; *Kyle v. Barbor* (1888), 52 J. P. 725; 33 Digest 24, 105; *Jobson v. Henderson* (1900), 64 J. P. 425; 38 Digest 170, 139; and *Sheffield Corp'n. v. Kitson* (1929), 93 J. P. 135; Digest Supp.

178. Name of local authority need not be proved.—In any proceedings instituted by or against a local authority it shall not be necessary to prove the corporate name of the authority or the constitution or limits of its area :

Provided that nothing in this section shall prejudice the right of a defendant to take or avail himself of any objection which he might have taken or availed himself of if this Act had not passed. [975]

This section corresponds to L.G.A. 1933, s. 278 (26 Statutes 453).

179. Recognizances in appeals, &c., not to be required of county council.—(1) Where under any enactment, rule of court or otherwise any party to an appeal or other legal proceedings is required to enter into recognizances for the prosecution of the appeal or other proceedings, the county council shall not be required to enter into such recognizances, and the entry of the appeal or institution of other proceedings by the council shall be sufficient compliance with the enactment, rule of court or other requirement.

(2) Nothing in this section shall be taken to relieve the county council of any liability to which it would have been subject had a recognizance been entered into. [976]

This section is based on L.C.C.(G.P.) Act, 1893, s. 11 (11 Statutes 1114).

180. Proof of debts in bankruptcy.—If any person against whom a local authority has any claim or demand is adjudged bankrupt, the clerk of the authority, or any other officer of the authority authorised in writing for the purpose, may represent the authority in all proceedings relating to the bankruptcy and act on its behalf in all respects as if the claim or demand was the personal claim or demand of the clerk or other officer and not of the authority. [977]

This section is based on M.M.A. 1855, s. 223 (11 Statutes 939).

181. Withholding or damaging property vested in local authority.—

(1) If any person having the charge or possession of any property or thing vested in a local authority fails on demand to deliver up that property or thing to the authority, or to such person as the authority may direct, he shall in respect of each offence be liable on summary conviction to a fine not exceeding five pounds and to pay to the authority the value of the property or thing not given up.

(2) If any person wilfully damages any property vested in a local authority, he shall in respect of each offence be liable on summary conviction to a fine not exceeding forty shillings and to pay to the authority the expenses incurred by it in making good the damage.

(3) If any person accidentally or carelessly damages any property vested in a local authority, the authority may recover from him summarily as a civil debt the expenses incurred by it in making good the damage. [978]

This section corresponds to M.M.A. 1855, ss. 156, 206, 207 (11 Statutes 924, 936).

Notices, &c.

182. Service of notices on local authority.—Any notice, order or other document required or authorised by this Act, or by any other enactment or statutory order, to be sent, delivered or served to or upon a local authority, or to or upon the chairman or clerk of the county council, or to or upon the mayor or town clerk of a borough, shall be addressed to the authority or to the chairman, clerk, mayor or town

clerk, as the case may be, and left at, or sent by post in a prepaid letter, to, the offices of the authority. [979]

This section corresponds to L.G.A. 1933, s. 286 (1) (26 Statutes 457). Cf. M.M.A. 1855, s. 220 (11 Statutes 938—939).

183. Service of notices by local authority.—(1) Subject to the provisions of this section, any notice, order or other document required or authorised by this Act, or by any other enactment or statutory order, to be served by or on behalf of a local authority, or by an officer of a local authority, on any person shall be deemed to be duly served—

(a) where the person to be served is a company, if the document is addressed to the secretary of the company at its registered office or at its principal office or place of business, and is either—

(i) sent by post in a prepaid letter, or

(ii) delivered at the registered office, or at the principal office or place of business of the company :

(b) where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of business, identifying it by the name or style under which its business is carried on, and is either—

(i) sent by post in a prepaid letter, or

(ii) delivered at the said place of business :

(c) where the person to be served is a public body, or a corporation, society or other body, if the document is addressed to the clerk, secretary, treasurer or other head officer of that body, corporation or society at its principal office, and is either—

(i) sent by post in a prepaid letter, or

(ii) delivered at that office :

(d) in any other case, if the document is addressed to the person to be served, and is either sent to him by post in a prepaid letter or delivered at his residence or place of business.

(2) Any document which is required or authorised to be served on the owner or occupier of any premises may be addressed “ the owner ” or “ the occupier ”, as the case may be, of those premises (naming them) without further name or description, and shall be deemed to be duly served—

(a) if the document so addressed is sent or delivered in accordance with paragraph (d) of the foregoing subsection ; or

(b) if the document so addressed, or a copy thereof so addressed, is delivered to some person on the premises or, where there is no person on the premises to whom it can be delivered, is affixed to some conspicuous part of the premises.

(3) A notice to treat under section eighteen of the Lands Clauses Consolidation Act, 1845, as incorporated with this Act or any other enactment or statutory order shall, if served by post, be served by registered post.

(4) Where a document is served on a partnership in accordance with this section, the document shall be deemed to be served on each partner.

(5) For the purpose of proving the service by post of any document, it shall (except where the document is sent by registered post) be sufficient to prove that it was properly addressed and was put into the post.

(6) For the purpose of enabling any document to be served on the

owner of any premises, the local authority may by notice in writing require the occupier of the premises to state the name and address of the owner thereof, and if the occupier refuses or wilfully neglects to do so, or wilfully misstates the name and address of the owner, he shall, unless in the case of a refusal he shows cause to the satisfaction of the court for his refusal, be liable on summary conviction in respect of each offence to a fine not exceeding five pounds.

(7) In this section the word "document" means any notice, order or other document which is required or authorised to be served as mentioned in subsection (1) of this section.

(8) For the purposes of this section, a notice, order or other document shall be deemed to be a notice, order or other document which is required or authorised to be served on a person if it is required or authorised to be notified, given or transmitted, or (in the case of a demand) if it is required or authorised to be made, to that person, and in this section the expressions "served" and "service" shall be construed accordingly. [980]

This section corresponds to L.C.C.(G.P.) Act, 1935, s. 65 (28 Statutes 160—161).

184. Authentication of documents.—(1) Any notice, order or other document which a local authority is authorised or required by or under any enactment (including any enactment in this Act) to give, make or issue may be signed on behalf of the authority by the clerk of the authority or by any other officer of the authority authorised by the authority in writing to sign documents of the particular kind or the particular document, as the case may be.

(2) Any document purporting to bear the signature of the clerk of the authority or of any officer stated therein to be duly authorised by the authority to sign such a document or the particular document, as the case may be, shall be deemed, until the contrary is proved, to have been duly given, made or issued by the authority of the local authority.

(8) In this section the word "signature" includes a facsimile of a signature by whatever process reproduced. [981]

185. Public notices.—Except as otherwise expressly provided in any enactment, a public notice required to be given by a local authority shall be given—

- (a) by affixing it to the offices of the authority; and
- (b) by posting it in some conspicuous place or places within the area of the authority; and
- (c) in such other manner, if any, as appears to the authority to be desirable for giving publicity to the notice. [982]

This section corresponds to L.G.A. 1933, s. 287 (26 Statutes 458).

186. Notices on offices, &c.—A notice or other document required to be affixed to the offices of a local authority, or to the county hall or a town hall, shall be exhibited in some conspicuous place on or near the outer door of the offices of the authority or of the county hall or town hall, as the case may be. [983]

This section corresponds to L.G.A. 1933, s. 288 (26 Statutes 458).

187. Penalty for destroying notices, &c.—Any person who destroys, tampers with, pulls down, injures or defaces—

- (a) any board on or to which any byelaw, notice or other matter put up by the authority of the Minister or of a local authority is inscribed or affixed; or

- (b) any advertisement, placard, bill or notice put up by or under the direction of a local authority,

shall in respect of each offence be liable on summary conviction to a fine not exceeding five pounds. [984]

This section corresponds to L.G.A. 1933, s. 289 (26 Statutes 458).

Provisional Orders

188. Procedure on making provisional orders.—(1) Where the Minister is authorised to make a provisional order under this Act, or under any enactment passed after the commencement of this Act, the following provisions shall have effect :—

- (a) before a provisional order is made, notice of the purport of the application therefor shall be given by the applicants by advertisement in the London Gazette and in one or more local newspapers circulating in the area to which the provisional order will relate ;
- (b) the Minister shall consider any objections to the application which may be made by any persons affected thereby, and shall, unless he considers that for special reasons an inquiry is unnecessary, cause a local inquiry to be held, of which notice shall be given in such manner as the Minister may direct and at which all persons interested shall be permitted to attend and make objections ;
- (c) the Minister may submit the provisional order to Parliament for confirmation, and the order shall have no effect until it is confirmed by Parliament ;
- (d) if while the Bill for the confirmation of the order is pending in either House of Parliament a petition is presented against the order, the petitioner shall be allowed to appear before the Select Committee to which the Bill is referred, and oppose the order, as in the case of a private Bill ;
- (e) any Act confirming a provisional order may be repealed, altered or amended by a provisional order made by the Minister and confirmed by Parliament ;
- (f) at any time before submitting a provisional order to Parliament the Minister may revoke the order, either wholly or in part ;
- (g) the making of a provisional order shall be *prima facie* evidence that all the requirements of this Act in respect of proceedings required to be taken before the making of the order have been complied with :

Provided that the provisions of paragraphs (a) and (b) of this subsection shall not apply as respects provisional orders made under Part V of this Act for the compulsory purchase of land.

(2) The reasonable costs incurred by a local authority in promoting or opposing a provisional order, and of the inquiry preliminary thereto, or in supporting or opposing a Bill to confirm a provisional order, as sanctioned by the Minister, shall be deemed to be expenses properly incurred by the authority interested in or affected by the order and shall be paid accordingly, and the local authority may borrow for the purpose of defraying those costs. [985]

This section corresponds to L.G.A. 1933, s. 285 (26 Statutes 456—457).

Inquiries

189. Power of government departments to direct inquiries.—(1) Where any department is authorised by this Act to determine any difference, to make or confirm any order, or to give any consent, confirmation, sanction or approval to any matter, or otherwise to act under this Act, and where the Secretary of State or the Minister is authorised to hold an inquiry either under this Act or under any other enactment relating to the functions of a local authority, the department, Secretary of State or the Minister may cause a local inquiry to be held.

(2) For the purpose of any such inquiry, the person appointed to hold the inquiry may by summons require any person to attend, at such time and place as is set forth in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry, and may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make and subscribe a declaration of the truth of the matter respecting which he is examined :

Provided that—

(a) no person shall be required, in obedience to a summons issued under this section, to go more than ten miles from his place of residence, unless the necessary expenses of his attendance are paid or tendered to him ;

(b) nothing in this section shall empower the person holding the inquiry to require the production of the title, or of any instrument relating to the title, of any land not being the property of a local authority.

(3) Every person who refuses or wilfully neglects to attend in obedience to a summons issued under this section, or to give evidence, or who wilfully alters, suppresses, conceals, destroys, or refuses to produce any book or other document which he may be required to produce for the purposes of this section, shall in respect of each offence be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(4) Where a department causes an inquiry to be held, the costs incurred by it in relation to that inquiry (including such reasonable sum not exceeding five guineas a day as it may determine for the services of any officer engaged in the inquiry) shall be paid by such local authority or party to the inquiry as the department may direct, and the department may certify the amount of the costs so incurred, and any amount so certified and directed by the department to be paid by any authority or person shall be recoverable from that authority or person either as a debt to the Crown or by the department summarily as a civil debt.

(5) The department may make orders as to the costs of the parties at any such inquiry and as to the parties by whom the costs are to be paid, and every such order may be made a rule of the High Court on the application of any party named in the order.

(6) In this section the expression "department" includes the Secretary of State, the Minister, the Minister of Transport, and any Board of Commissioners. [986]

Miscellaneous Provisions

190. Provisions for giving publicity to the amenities of the county.—The county council may, for the purpose of giving publicity to the amenities and advantages of the county—

- (1) enter into and carry into effect agreements for the purpose aforesaid with any person approved by the Minister ;
- (2) make reasonable contributions towards the expenses incurred by any such person in giving effect to the agreement ;
- (3) incur reasonable expenditure on the use of suitable media of advertising ;
- (4) incur reasonable expenditure on the establishment and maintenance of office accommodation for the dissemination of information relating to the county :

Provided that nothing in this section shall authorise the council—

- (a) to give publicity to the commercial and industrial advantages of the county by advertisement or otherwise in the United Kingdom ;
- (b) to incur expenditure in advertising in any newspaper circulating exclusively or mainly within the county,

nor shall anything in paragraph (3) or paragraph (4) of this section authorise the council itself to advertise in any place outside the United Kingdom or to establish or maintain office accommodation outside the United Kingdom. [987]

This section reproduces L.C.C.(G.P.) Act, 1936, s. 44 (29 Statutes 284).

191. Expenses in connection with ceremonies, &c.—(1) Subject to the provisions of this section, the county council may make payments for or in connection with—

- (a) the reception and entertainment, by way of official courtesy, of distinguished persons residing in or visiting the county and persons representative of or connected with local government or other public services, and for the supply of information to any such persons ;
- (b) visits, by way of official courtesy, by or on behalf of the council ;
- (c) the arrangement and conduct of ceremonies relative to or arising out of the statutory functions of the council,

including payments for travelling expenses and for expenses reasonably incurred by or on behalf of any member or officer of the council in connection with any of the matters aforesaid.

(2) The aggregate expenditure under this section in respect of any financial year shall not exceed the sum of two thousand five hundred pounds. [988]

This section reproduces L.C.C.(G.P.) Act, 1935, s. 63 (28 Statutes 159).

192. Power of county council to expend money on investigations.—

(1) Subject to the provisions of this section, the county council may expend money in investigating matters which are of importance generally to the inhabitants of the county.

(2) The aggregate expenditure under this section in respect of any financial year shall not exceed the sum of one thousand pounds. [989]

This section corresponds to L.C.C.(G.P.) Act, 1893, s. 12 (11 Statutes 1114—1115).

193. Contributions by county council to funds of hospitals, &c.—

(1) The county council may contribute to the funds of any hospital,

convalescent home, dispensary or other similar institution in which any officer of the council may receive treatment.

(2) The aggregate expenditure under this section in respect of any financial year shall not exceed the sum of five hundred pounds. [990]

This section reproduces L.C.C.(G.P.) Act, 1910, s. 45 (11 Statutes 1313).

194. Fire insurance fund.—(1) The county council may establish a fund (in this section called "the fire insurance fund") with a view to providing a sum of money which shall be available for the purpose of making good any loss or damage occasioned by, or in consequence of, fire, lightning, or explosion, to any building, works or other property (in this section called "the insurable property") belonging to, or under the care, custody or control of the council.

(2) The county council shall in each year pay into the fire insurance fund in respect of the insurable property insured in that fund such sum, not exceeding the amount of the annual premiums which would have been payable if the insurable property were insured for a like amount in a public insurance office in England, as it thinks necessary :

Provided that the council may discontinue such yearly payments for such periods as it thinks fit if it appears to the council at any time that the insurance fund amounts to a sum in excess of what is reasonably necessary to cover the risks insured in the fund.

(3) Nothing in this section shall affect the power of the county council to insure the insurable property, or any part thereof, against such loss or damage as aforesaid in any public insurance office in England, or partly in such public insurance office and partly in the fire insurance fund, or compel the council to insure any of the insurable property to the full amount of the value thereof.

(4) The county council shall provide the yearly payments to the fire insurance fund as aforesaid from the respective revenues, funds, or rates which, if the insurable property were insured in a public insurance office, would be properly chargeable with the payment of the premiums on that insurance.

(5) Except so far as the fire insurance fund and the proceeds of sale of securities in which that fund is invested may be necessary to meet any such loss or damage as aforesaid, all money for the time being standing to the credit of the fire insurance fund shall be invested, and the interest and annual proceeds arising therefrom shall be credited to the general county account of the county fund :

Provided that at the end of every year in which any interest and annual proceeds as aforesaid are credited to the general county account of the county fund the county council shall, out of that account, pay to the fire insurance fund (in addition to any sums payable under the next succeeding subsection) such sum, not exceeding the total amount carried to the said account during that year in respect of such interest and annual proceeds as aforesaid, as, in the opinion of the council, will be sufficient to maintain the fire insurance fund at an amount reasonably necessary to cover the risks insured in the fund.

(6) If at any time the fire insurance fund is insufficient to make good any such loss or damage as aforesaid occasioned to any part of the insurable property insured in that fund, the deficiency shall be made good by the council as a payment for general county purposes, or the council may, in accordance with the provisions of the London County Council (Finance Consolidation) Act, 1912, borrow or otherwise provide the money required for that purpose.

(7) Any insurance under this section shall, to the extent of the amount of the insurance, be deemed to satisfy any general covenant or obligation binding the county council to insure the insurable property.

[991]

This section consolidates the provisions relating to the fire insurance fund, which are to be found in L.C.C.(G.P.) Act, 1924, s. 60 (11 Statutes 1370-1371) and L.C.C. (G.P.) Act, 1929, s. 59 (*ibid.*, 1425).

195. Supply of goods by county councils to other authorities.—(1) The county council may purchase and store and supply to an authority any goods or materials required for the discharge of the functions of that authority, and for those purposes the council and any authority may enter into and carry into effect agreements and do all such other acts as may be necessary or convenient.

(2) For the purposes of this section, the expression "authority" means—

- (a) a borough council or a joint committee appointed by two or more borough councils :
- (b) a body of persons discharging functions relating to education or public health and receiving financial aid from the county council in relation to those functions :
- (c) the body of persons concerned in the promotion of the welfare of blind persons ordinarily resident within the county :
- (d) the committee appointed by the county council under section ten of the Old Age Pensions Act, 1936 :
- (e) the insurance committee appointed for the county under section ninety one of the National Health Insurance Act, 1936 :
- (f) the British Postgraduate Medical School. [992]

This section reproduces L.C.C.(G.P.) Act, 1936, s. 50 (29 Statutes 288—289). For s. 91 of the National Health Insurance Act, 1936, see 29 Statutes 1119—1120.

196. Power to apply provisions of Act to joint boards, &c.—Where any enactment, whether passed before or after the commencement of this Act, authorises the formation by provisional order or order of a joint board or joint committee, any constituent member of which is the county council or a borough council, for the discharge of any of the functions of those councils, the provisional order or order may apply to the joint board or joint committee, subject to any necessary modifications, any of the provisions of this Act except the provisions enabling land to be acquired compulsorily by means of a compulsory purchase order. [993]

This section is based on L.G.A. 1933, s. 293 (26 Statutes 461—462).

197. Provisions as to Sundays, &c.—(1) Where the day or the last day on which anything is required or permitted by or in pursuance of any enactment in this Act to be done is a Sunday, Christmas Day, Good Friday, a bank holiday or a day appointed for public thanksgiving or mourning, the said enactment shall have effect as if for the reference to the day aforesaid there were substituted a reference to the first day thereafter which is not one of the days aforesaid.

(2) Where by virtue of the foregoing provision of this section an election is postponed, the day on which the election is held shall be treated as the day of election for all purposes of this Act relating to that election :

Provided that, where a day is declared to be a bank holiday, or a day of public thanksgiving or mourning, nothing in this subsection

shall affect the validity of any act done in relation to an election before or on the date of the declaration. [994]

This section corresponds to L.G.A. 1933, s. 295 (26 Statutes 462—463).

198. References to population.—For the purposes of any enactment passed after the commencement of this Act relating to local government, references to the last published census shall, as regards any area within the county, be construed as references to the last census in respect of which the Registrar General has, in pursuance of the Act under which the census was taken, published a report giving the population of that area, not being a report which is, or purports to be, of a provisional nature. [995]

This section corresponds to L.G.A. 1933, s. 296 (26 Statutes 463).

199. Power to require copies of values in force under Schedule A of 8 & 9 Geo. 5. c. 40.—Any authority which, or person who, is required under this Act to have regard to the net annual value of any land in an area may require the surveyor of taxes for that area to furnish to it or him, on payment at a rate not exceeding five shillings for every hundred entries numbered separately, a copy of the annual values for the purposes of income tax under Schedule A of the Income Tax Act, 1918, for all or any of the properties in that area. [996]

This section corresponds to L.G.A. 1933, s. 297 (26 Statutes 463).

200. Exercise by Minister of certain powers conferred by local Acts on Treasury and Secretary of State.—(1) The Minister shall exercise—

- (a) as regards a borough council, any power conferred on the Treasury by a local or private Act passed before the fourth day of August nineteen hundred and six, with respect to dealings with property, loans and matters connected therewith ;
- (b) any power of consent, sanction or confirmation conferred on a Secretary of State by a local Act passed before the eleventh day of August eighteen hundred and seventy-five with respect to any loan, the giving effect to any byelaws, or the appointment of any officer for sanitary purposes ;
- (c) any power of consenting to, sanctioning, confirming or allowing byelaws for sanitary purposes conferred on a court of quarter sessions by a local Act passed before the commencement of this Act ;

and all such enactments, and all enactments referring to the power so conferred, shall be construed accordingly.

(2) If any question arises whether paragraph (a) of subsection (1) of this section applies to any power conferred by, or referred to in, any enactment, the decision of the Treasury shall be final, and if any question arises as to what are sanitary purposes within the meaning of paragraph (b) or paragraph (c) of the said subsection, the decision of the Minister shall be final. [997]

This section corresponds to L.G.A. 1933, s. 298 (26 Statutes 463—464).

201. Power to annul regulations and orders.—Where any regulation or order made under this Act is required to be laid before each House of Parliament, it shall be so laid for a period of thirty days during the session of Parliament, and if an Address is presented to His Majesty by either House of Parliament before the expiration of that period praying that the regulation or order may be annulled, it shall thenceforth be

void, but without prejudice to the validity of anything previously done thereunder or to the making of a new regulation or order :

Provided that, in reckoning any such period of thirty days as aforesaid, no account shall be taken of any time during which both Houses are adjourned for more than four days. [998]

This section corresponds to L.G.A. 1933, s. 299 (26 Statutes 464).

202. Saving for existing members of local authority.—A person holding office at the commencement of this Act as a member of a local authority, or as a member of any committee or sub-committee thereof, shall be deemed to have been elected or appointed to that office under this Act :

Provided that he shall retire from office on the date on which he would have retired if this Act had not passed, and until he so retires from that office he shall not be disqualified for holding the office by reason of any circumstances which occurred before the date of the commencement of this Act and which did not under the law in force at that date give rise to a disqualification for that office. [999]

This section corresponds to L.G.A. 1933, s. 300 (26 Statutes 464).

203. Restriction on alteration of parishes, &c.—(1) A parish shall not be situate in more than one borough, or partly within a borough and partly within the City of London.

(2) The places known respectively as the Inner Temple and the Middle Temple shall not be added to a parish. [1000]

Sub-s. (1) of this section is based on London Government Act, 1899, s. 17 (11 Statutes 1235). Sub-s. (2) reproduces the Poor Law Act, 1927, s. 207 (1) (12 Statutes 962).

204. Saving for Crown rights.—Nothing in section seventeen of this Act shall prejudicially affect the powers exercisable by His Majesty by virtue of his royal prerogative :

Provided that the fore going saving for the royal prerogative shall not be held to prejudice or affect, in relation to that or any other matter, the general application of any rule of law with respect to any estate, right, power, privilege or exemption of the Crown. [1001]

This section corresponds to L.G.A. 1933, s. 206 (26 Statutes 468).

205. Cesser of certain enactments.—Whereas with a view to the simplification and consolidation of the law relating to local government it is desirable that the enactments set out in the Seventh Schedule to this Act should cease to have effect to the extent specified in the third column of that Schedule :

Now therefore the enactments aforesaid shall cease to have effect to the extent specified as aforesaid. [1002]

This section is in terms similar to those of L.G.A. 1933, s. 304 (26 Statutes 463).

206. Definitions.—In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them :—

“ Affairs of the church ” has the same meaning as in the Local Government Act, 1894 ;

“ Borough ” means metropolitan borough ;

“ Borough council ” means metropolitan borough council ;

“ Borough councillor ” means a councillor for a borough ;

“ Clerk of the authority ” means the clerk of the county council or the town clerk of the borough, as the case may require ;

“ Companies Acts ” means the Companies Act, 1862, the Companies (Consolidation) Act, 1908, or the Companies Act, 1929 ;

- “Consular officer” includes a British consul general, acting consul general, consul, acting consul, vice-consul, acting vice-consul, pro-consul, consular agent, and acting consular agent ;
- “County council” means the London County Council ;
- “County of London” means the county exclusive of the City of London ;
- “Ecclesiastical charity” has the same meaning as in the Local Government Act, 1894 ;
- “Electoral area” in relation to an election means the electoral division, or ward for which the election is held ;
- “Enactment” includes an enactment in a provisional order confirmed by Parliament ;
- “Financial year” means the period of twelve months ending on the thirty-first day of March ;
- “Functions” includes powers and duties ;
- “Land” includes any interest in land and any easement or right in, to or over land ;
- “Local authority” means the county council or a borough council ;
- “Local government elector” or “elector” means a person registered as a local government elector in the register of electors in accordance with the provisions of the Representation of the People Acts ;
- “Minister” means the Minister of Health ;
- “Net annual value” means either the annual value for the time being in force for the purposes of income tax under Schedule A of the Income Tax Act, 1918, as amended by any subsequent enactment, subject to any reduction made for the purpose of collection in accordance with the provisions of Rule 7 of No. V in the said Schedule as so amended or, in relation to land which is not assessed under the said Schedule A, the net annual value for rating purposes as shown in the valuation list ;
- “Officer” includes a servant ;
- “Parish property” means—
- (a) property, the rents and profits of which are applicable or, if the property were let, would be applicable to the general benefit of one or more parishes or the ratepayers, parishioners or inhabitants thereof, but does not include—
 - (i) property given or bequeathed by way of charitable donation or allotted in right of some charitable donation or otherwise for the poor persons of any parish or parishes, if the income of the property is not applicable to the general benefit of the ratepayers or other persons as aforesaid ;
 - (ii) property acquired by a board of guardians before the first day of April, nineteen hundred and thirty, for the purposes of its functions in the relief of the poor ; and
 - (b) land allotted to, or otherwise acquired by, a parish, whether in the name of the surveyor of highways or other trustees or generally, for the purpose of the supply of materials for the repair of the public roads and highways in the parish and also for the repair of private roads therein, or for some other purpose, public or private, where the materials in the land are exhausted or are not suitable or required, and the land is not available for that purpose, if any ;

- “ Prescribed ” means prescribed by regulations made, except where some other prescribing authority is specified, by the Minister ;
- “ Property ” includes all property, real and personal, and all estates, interests, easements, and rights whether equitable or legal, in, to, and out of property, real and personal ;
- “ Public body ” includes a local authority, whether a local authority for the purposes of this Act or for the purposes of the Local Government Act, 1933, and any trustees, commissioners or other persons who, as a public body and not for their own profit, act under any enactment or statutory order for the improvement of any place or for the supply to any place of water, gas or electricity, or for providing or maintaining a cemetery or market in any place, and any other authority having power to levy, or to issue a precept for, any rate for public purposes ;
- “ Sale ” includes a sale in consideration of a chief rent, rentcharge or other similar periodical payment, and the expressions “ sell ” and “ purchase ” have corresponding meanings ;
- “ Standing joint committee ” means the standing joint committee of the court of quarter sessions for the county of London and the county council appointed under section thirty of the Local Government Act, 1888 ;
- “ Statutory order ” means any order, rule or regulation made under any enactment ;
- “ Statutory undertakers ” means any persons authorised by an enactment or statutory order to construct, work or carry on any railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water or other public undertaking ;
- “ The county ” means the administrative county of London ;
- “ Undertaking ” means, in relation to a local authority, the provision of water, gas, electricity, transport or any other public service which the local authority is authorised to undertake. [1003]

207. Repeals.—(1) The enactments mentioned in the Eighth Schedule to this Act are hereby repealed in their application to the county to the extent specified in the third column of that Schedule :

Provided that—

- (i) nothing in this repeal shall affect any byelaw in force at the commencement of this Act, and any byelaw for good rule and government and for the prevention and suppression of nuisances in force at the commencement of this Act shall have effect as if made under this Act and may be amended or revoked and enforced accordingly ;
- (ii) in the case of a byelaw which has been made before the commencement of this Act but which by reason of its not having been confirmed is not in force at that date, the same proceedings may be taken and with the same effect as if this Act had not been passed ;
- (iii) if at the commencement of this Act a casual vacancy has occurred in any office for which an election would be held under this Act, and the vacancy has not been filled, the vacancy shall be filled in the same manner as if this Act had not been passed ;
- (iv) nothing in this section shall affect any order, scheme, rule or regulation made, or deemed to have been made, under any

enactment repealed by this Act, and every such order, scheme, rule or regulation shall continue in force and, if it is of such a nature that it could have been made under this Act, shall have effect as if made under the corresponding provision of this Act, and may be amended, varied, repealed, revoked or enforced accordingly ;

(v) nothing in this section shall affect any appointment, agreement or resolution made, direction or notice given, proceedings taken or other thing done under any enactment repealed by this Act, and every such appointment, agreement, resolution, direction, notice, proceedings or other thing shall, so far as it could have been made, given, taken or done under this Act, have effect as if it had been made, given, taken or done under the corresponding provision of this Act ;

(vi) nothing in this section shall affect any compensation payable, or any title to compensation, under any enactment repealed by this Act, whether as originally enacted or as applied by any other enactment or statutory order.

(2) Any document referring to any Act or enactment repealed by this Act shall be construed as referring to this Act or to the corresponding enactment, if any, in this Act.

(3) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals.

[1004]

208. Short title and date of commencement.—This Act may be cited as the London Government Act, 1939, and shall come into operation on the first day of January nineteen hundred and forty. [1005]

SCHEDULES

Section I

FIRST SCHEDULE

METROPOLITAN BOROUGHES

Battersea.	Kensington.
Bermondsey.	Lambeth.
Bethnal Green.	Lewisham.
Camberwell.	Paddington.
Chelsea.	Poplar.
Deptford.	St. Marylebone.
Finsbury.	St. Pancras.
Fulham.	Shoreditch.
Greenwich.	Southwark.
Hackney.	Stepney.
Hammersmith.	Stoke Newington.
Hampstead.	Wandsworth.
Holborn.	Westminster.
Islington.	Woolwich.

[1006]

This Schedule corresponds to the First Schedule of the London Government Act, 1899 (11 Statutes 1242). The names of the boroughs which at that date consisted of more than one parish being inserted in place of the descriptions of area given in the Act of 1899.

Sections 15
29 and 45

SECOND SCHEDULE

RULES RELATING TO THE ELECTION OF COUNCILLORS

PART I

MATTERS PRECEDING THE POLL

Notice of Election

1.—(1) On or before the twentieth day preceding the day of election a notice of election shall be published in the form prescribed by the Secretary of State.

(2) The notice of election shall be prepared and signed by the returning officer, and he shall publish it—

(a) in the case of an election of county councillors, by causing it to be affixed to the town hall of the borough in which the electoral division for which the election is to be held is comprised or, if the electoral division comprises the City of London, at the Guildhall of the said City, and to be exhibited at such places in the electoral division as he may determine ;

(b) in the case of an election of borough councillors, by causing it to be affixed to the town hall of the borough, and to be exhibited at such places in the ward for which the election is to be held as he may determine.

Nomination of Candidates

2.—(1) Every candidate for election must be nominated by two local government electors for the electoral area as his proposer and seconder.

(2) The nomination of each candidate must be made on a separate nomination paper in the form prescribed by the Secretary of State, stating the full name, place of residence and description of the candidate, and must be signed by the proposer and seconder, and, in the case of an election of county councillors, by eight other local government electors for the electoral division as assenting to the nomination.

(3) No person shall—

(a) sign more than one nomination paper in respect of the same candidate ;
or

(b) sign more nomination papers than there are vacancies to be filled in the electoral area ; or

(c) in the case of an election of borough councillors, sign a nomination paper for more than one ward of the borough ;

and if any person signs nomination papers in contravention of the foregoing provisions of this rule, his signature shall be inoperative in all but those papers, up to the permitted number, which are first delivered.

(4) The returning officer shall provide nomination papers, and shall supply any local government elector for the electoral area with as many nomination papers, as may be required, and shall, at the request of any such local government elector, prepare for signature a nomination paper.

Candidate's Consent to Nomination

3. A person shall not be validly nominated unless his consent to nomination (in this Schedule referred to as "the candidate's consent") given in writing on or within one month before the last day for the delivery of nomination papers, and attested by one witness, is delivered at the place and within the time appointed for the delivery of nomination papers :

Provided that, in the case of an election to fill a casual vacancy, if the returning officer is satisfied that owing to the absence of a person from the United Kingdom it has not been reasonably practicable for his consent in writing to be given as aforesaid, a telegram consenting to his nomination and purporting to have been sent by him shall be deemed, for the purpose of this

rule, to be consent in writing given by him on the day on which it purports to have been sent and attestation of his consent shall not be required.

Time and Place for sending in Nomination Papers

4.—(1) Every nomination paper shall be delivered at such place within the electoral area as may be appointed for the purpose by the returning officer, not later than five o'clock in the afternoon on the twelfth day preceding the day of election.

(2) The returning officer shall number the nomination papers in the order in which they are received by him, and the first valid nomination paper received in respect of a candidate shall be deemed to be the nomination paper of that candidate.

Decision as to Validity of Nomination

5.—(1) As soon as may be after the time for the delivery of nomination papers has expired, the returning officer shall examine the nomination papers, and decide whether the candidates have been validly nominated in accordance with the provisions of this Schedule.

(2) Where the returning officer decides that a candidate has been so validly nominated, his decision shall be final and shall not be questioned in any proceeding whatsoever.

(3) Where the returning officer decides that a candidate has not been so validly nominated he shall endorse and sign on the nomination paper the fact and reasons for his decision.

(4) The decision of the returning officer under the last preceding paragraph of this rule shall be subject to review on an election petition questioning the election.

(5) Not later than five o'clock in the afternoon on the eleventh day preceding the day of election, the returning officer shall send notice of his decision to each candidate at his place of residence as stated on his nomination paper.

Statement as to Persons Nominated

6. The returning officer shall, not later than five o'clock in the afternoon on the eleventh day preceding the day of election, prepare a statement in the form prescribed by the Secretary of State containing the full names of all persons nominated and their places of residence and descriptions and his decision whether those persons have been validly nominated, and shall publish the statement by causing it to be affixed to the place appointed for the delivery of nomination papers.

Withdrawal of Candidates

7. A candidate may withdraw from his candidature by notice of withdrawal signed by him and attested by one witness and delivered at the place appointed for the delivery of nomination papers not later than five o'clock in the afternoon on the ninth day preceding the day of election.

Nomination in more than one Electoral Area

8. A candidate who is validly nominated for more than one electoral area must, by notice signed, attested and delivered as aforesaid, withdraw from his candidature in all those electoral areas except one, and if he does not so withdraw he shall be deemed to have withdrawn from his candidature in all the electoral areas.

Method of Election and Publication of Result of Uncontested Election

9.—(1) If the number of the persons who, after any withdrawals under the foregoing provisions of this Schedule, remain validly nominated exceeds the number of vacancies to be filled, the councillors shall be elected, in accordance with the rules contained in Part II of this Schedule, from among those persons.

(2) If the number of the persons who remain validly nominated as aforesaid is the same as the number of vacancies to be filled, the persons so remaining validly nominated shall be deemed to be elected.

(3) If the number of the persons who remain validly nominated as aforesaid is less than the number of vacancies to be filled, the persons so remaining validly nominated shall be deemed to be elected, and, if the election is an ordinary election, such of the retiring councillors for the electoral area as were highest on the poll at the last ordinary election, or as filled the places of councillors who were highest on the poll at that election, or, if the poll was equal or there was no poll, as may be determined by the drawing of lots conducted under the direction of the chairman of the county council or of the mayor of the borough as the case may require, shall be deemed to be elected to make up the required number.

(4) If at an ordinary election no person is or remains validly nominated, the retiring councillors for the electoral area shall be deemed to be elected.

10. If an election is not contested, the returning officer shall, not later than eleven o'clock in the morning of the day of election, publish a list of the persons elected, and shall forthwith return the names of the persons elected, in the case of an election of county councillors, to the clerk of the county council, and in the case of an election of borough councillors, to the town clerk of the borough.

Supplemental Provisions

11. For the purpose of this Part of this Schedule a person shall be deemed to be registered as a local government elector for an electoral area if he is registered in the register of local government electors for that electoral area which will be in force on the day of election, or if, pending the coming into force of that register, his name appears in the electors lists for that register as corrected by the registration officer.

12. In computing any period of time for the purposes of this Schedule, a Sunday, Christmas Day, Good Friday, a bank holiday or a day appointed for public thanksgiving or mourning, shall be disregarded, and any such day shall not be treated as a day for the purpose of any proceeding under this Schedule. [1007]

PART II

MATTERS RELATING TO CONTESTED ELECTION

THE POLL

General conduct of poll

1. At every contested election of councillors the votes shall be given by ballot, and the poll shall be conducted in accordance with the rules contained in this Part of this Schedule.

Notice of Poll

2.—(1) The returning officer shall, on or before the fifth day preceding the day of election, give notice of the poll, specifying—

- (a) the day and hours fixed for the poll ;
- (b) the number of councillors to be elected ;
- (c) the full name, place of residence, and description of each candidate remaining validly nominated ;
- (d) the names of the proposer and seconder who signed the nomination paper of each candidate ;
- (e) a description of the polling district (if any) ; and
- (f) the situation of each polling station and the description of the persons entitled to vote thereat.

(2) A notice of poll required to be published under this rule shall be published at the places at which the notice of the election is required to be published under Part I of this Schedule.

Hours of poll

3.—The poll at an election shall commence at eight o'clock in the morning and, subject as hereinafter provided be kept open till eight o'clock in the afternoon of the same day and no longer.:

Provided that if notice in writing is given to the returning officer not later than the time hereinafter mentioned by candidates who remain validly nominated for election and to a number not less than the number of vacancies to be filled that they wish the poll to be kept open until nine o'clock in the afternoon, the poll shall be kept open until that hour but no longer.

(2) The notice aforesaid must be given not later than five o'clock in the afternoon on the ninth day preceding the day of election.

Use of schools, public rooms or churches

4.—(1) The returning officer may use, free of charge, for the purpose of taking the poll or of counting the votes—

(a) a room in a school in receipt of a grant, or in respect of which a grant is made, out of money's provided by Parliament, from or by the Board of Education ; or

(b) a room the expense of maintaining which is payable out of any rate.

(2) The returning officer shall make good any damage done to, and defray any expense incurred by the persons having control over, any such room as aforesaid by reason of its being used for the purpose of taking the poll or of counting the votes.

(3) The use of a room in an unoccupied house for the purpose of taking the poll or of counting the votes shall not render a person liable to be rated or to pay any rate for that house.

5. An election shall not be held in a church, chapel or other place of public worship.

Death of candidate before commencement of poll

6. If after the latest time for delivery of nomination papers and before the commencement of the poll a candidate who remains validly nominated dies, the returning officer shall upon being satisfied of the fact of death, countermand the poll.

Provision of polling stations, ballot boxes, &c.

7. The returning officer shall—

(a) provide a sufficient number of polling stations for the electors, and allot the electors to the polling stations in such manner as he thinks most convenient ;

(b) appoint a presiding officer to preside at each polling station, and such other officers (including poll clerks) as may be necessary for making the poll and counting the votes ;

(c) provide each polling station with such number of compartments as may be necessary in which the electors can mark their votes screened from observation ;

(d) provide each presiding officer with such number of ballot boxes and ballot papers as in the opinion of the returning officer may be necessary ;

(e) provide each polling station with materials to enable electors to mark the ballot papers, with instruments for stamping thereon the official mark, and with copies of the register of electors for the electoral area or such part thereof as contains the names of the electors allotted to vote at the station ;

(f) do such other acts and things as may be necessary for effectually conducting the election in manner provided by this Schedule.

8. One or more polling stations may be provided in the same room.

9. A notice in the form set forth in Part III of this Schedule, or as near thereto as circumstances admit, giving directions for the guidance of electors

in voting, shall be printed in conspicuous characters and exhibited outside every polling station and in every compartment in the polling station.

10. Every ballot box shall be so constructed that the ballot papers can be put into it, but cannot be withdrawn from it, without the box being unlocked.

11. Every ballot paper shall be in the form set forth in Part III of this Schedule, or as near thereto as circumstances admit, and—

- (a) shall contain the full names, places of residence and descriptions of the candidates as stated on their respective nomination papers and arranged alphabetically in the order of their surnames, and, if there are two or more candidates with the same surname, of their other names ;
- (b) shall be capable of being folded up ;
- (c) shall have a number printed on the back ;
- (d) shall have attached a counterfoil with the same number printed on the face.

12. The official mark shall be kept secret, and an interval of not less than seven years shall intervene between the use of the same official mark at elections for the county or for the same borough, as the case may be.

Polling agents

13.—(1) At an election of county councillors each candidate may appoint agents to attend at the polling stations for the purpose of detecting personation.

(2) At an election of borough councillors the candidates may severally or jointly appoint agents to attend at the polling stations for the purpose of detecting personation :

Provided that—

- (a) not more than one agent shall be appointed to attend at any polling station on behalf of the same candidate ;
- (b) not more than three, or if the number of candidates exceeds twenty not more than four agents shall be appointed to attend at any polling station.

(3) An agent appointed under this rule is in this Schedule referred to as “ a polling agent ”.

(4) Notice in writing of the appointment, stating the names and addresses of the persons appointed, shall be given by the candidate or candidates to the returning officer two clear days at least before the day of election ; and if at an election of borough councillors the number of polling agents appointed to attend at any polling station exceeds the number permitted by this rule to attend thereat, only those polling agents, up to the permitted number, whose appointments are signed by the greater number of candidates or, in the event of an equality in the number of signatures, only such of those polling agents as may be determined by the returning officer, shall be deemed to have been validly appointed.

(5) If a polling agent dies, or becomes incapable of acting, the candidate or candidates may appoint another polling agent in his place, and shall forthwith give to the returning officer notice in writing of the name and address of the polling agent so appointed.

(6) Subject to the provisions of this rule, a polling agent in respect of whom such notice as aforesaid has been given may, during the hours of the poll, attend at the polling station to which he has been appointed.

Admission to polling station

14.—(1) No person shall be admitted to vote at any polling station except the one allotted to him.

(2) The presiding officer shall regulate the number of electors to be admitted to the polling station at the same time, and shall exclude all other persons except the candidates, the polling agents, the officers appointed under

this Schedule, the police officers on duty, and any person accompanying a blind elector for the purpose of assisting him to vote.

(8) Nothing in this rule shall affect the provisions of the Police Disabilities Removal Act, 1887, as applied to elections of county councillors and of borough councillors by the Police Disabilities Removal Act, 1893.

Ballot boxes to be sealed

15. Immediately before the commencement of the poll, the presiding officer shall show the ballot box empty to such persons, if any, as are present in the polling station, so that they may see that it is empty, and shall then lock it up and place his seal on it in such manner as to prevent it being opened without breaking the seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

Questions to be put to electors

16.—(1) The presiding officer may, and, if required by two electors or by a candidate or his polling agent, shall, at the time when a person applies for a ballot paper, but not afterwards, put to that person the following questions, or either of them, that is to say :—

(a) In the case of an election of county councillors—

(i) Are you the person registered in the register of local government electors now in force for this electoral division as follows [*read the whole entry from the register*] ?

(ii) Have you already voted at the present election of county councillors for this electoral division [*adding in the case of an ordinary election or a first election of an additional councillor, or for any other electoral division of the county*] ?

(b) In the case of an election of borough councillors—

(i) Are you the person registered in the register of local government electors now in force for this ward as follows [*read the whole entry from the register*] ?

(ii) Have you already voted at the present election of borough councillors for this ward [*adding in the case of an ordinary election or a first election of an additional councillor, or for any other ward of the borough*] ?

(2) A ballot paper shall not be delivered to any person required to answer the above questions, or either of them, unless he has answered the question or questions satisfactorily.

(3) Except as authorised by this rule no inquiry shall be made as to the right of any person to vote.

Challenge of elector by polling agent

17.—If at the time when a person applies for a ballot paper, or if at any time after a person has applied for a ballot paper and before he has left the polling station, a polling agent declares to the presiding officer that he has reasonable cause to believe that the applicant has committed an offence of personation under this Act and undertakes to substantiate the charge in a court of law, the presiding officer may order a police officer to arrest the applicant, and the order of the presiding officer shall be sufficient authority for the police officer to do so.

(2) A person against whom such a declaration as aforesaid is made by a polling agent shall not, by reason thereof, be prevented from voting, but the presiding officer shall cause the words “*protested against for personation*” to be placed against the name in the marked copy of the register of electors.

(3) A person arrested under the provisions of this rule shall be dealt with as a person taken into custody by a police officer for an offence without a warrant.

Marking of ballot papers

18. A ballot paper shall be delivered to an elector who applies therefor, and immediately before delivery—

- (a) the ballot paper shall be marked with the official mark, either embossed or perforated ;
- (b) the number, name, and description of the elector as stated in the copy of the register of electors shall be called out ;
- (c) the number of the elector shall be marked on the counterfoil together with the distinctive letter of the parliamentary polling district in which the elector is registered ;
- (d) a mark shall be placed in the register of electors against the number of the elector to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received.

19.—(1) The elector, on receiving the ballot paper, shall forthwith proceed to one of the compartments in the polling station and there secretly mark his ballot paper and fold it up so as to conceal his vote, and shall then show to the presiding officer the back of the paper so as to disclose the official mark, and put the ballot paper so folded up into the ballot box in the presence of the presiding officer.

(2) The elector shall vote without undue delay, and shall leave the polling station as soon as he has put his ballot paper into the ballot box.

20.—(1) The presiding officer, on the application—

- (a) of an elector who is incapacitated by blindness or other physical cause from voting in manner directed by this Schedule ; or
- (b) if the poll is taken on a Saturday, of an elector who declares orally that he is a Jew and objects on religious grounds to vote in manner directed by this Schedule ; or
- (c) of an elector who makes a declaration in writing that he is unable to read (in this Schedule referred to as “ the declaration of inability to read ”),

shall, in the presence of the polling agents, cause the vote of the elector to be marked on a ballot paper in manner directed by the elector, and the ballot paper to be placed in the ballot box.

(2) The name and number in the register of electors of every elector whose vote is marked in pursuance of this rule and the reason why it is so marked, shall be entered on a list (in this Schedule called “ the list of votes marked by the presiding officer ”).

21.—(1) If an elector makes an application to the presiding officer to be allowed on the ground of blindness to vote with the assistance of another person by whom he is accompanied (in this Schedule referred to as “ the companion ”), the presiding officer shall require the elector to declare orally whether he is so incapacitated by his blindness as to be unable to vote without assistance.

(2) If the presiding officer is satisfied that the elector is so incapacitated and is also satisfied by a written declaration made by the companion (in this Schedule referred to as “ the declaration made by the companion of a blind elector ”) that the companion is a qualified person within the meaning of this rule and has not previously assisted more than one blind person to vote at the election then being held, the presiding officer shall grant the application, and thereupon anything which is by this Schedule required to be done to or by the said elector in connection with the giving of his vote may be done to, or with the assistance of, the companion.

(3) For the purpose of this rule, a person shall be qualified to assist a blind elector to vote, if that person is either—

- (a) a person who is entitled to vote at the election then being held ; or
- (b) the father, mother, brother, sister, husband, wife, son or daughter of the blind elector and has attained the age of twenty-one years.

(4) The name and number in the register of electors of every elector

whose vote is given in accordance with this rule and the name and address of the companion shall be entered on a list (in this Schedule called "the list of blind electors assisted by companions").

22.—(1) The declaration of inability to read and the declaration made by the companion of a blind elector—

- (a) shall be respectively in Form D and Form E in Part III of this Schedule or in a form as near thereto as circumstances admit; and
- (b) shall be made before the presiding officer at the time when the elector applies for a ballot paper or applies to vote with the assistance of the companion, as the case may be, and shall forthwith be handed to the presiding officer, who shall attest and retain it.

(2) No fee, stamp or other payment shall be charged in respect of the declaration.

23. If a person, representing himself to be a particular elector named in the register of electors, applies for a ballot paper after another person has voted as that particular elector, the applicant shall, on satisfactorily answering the questions set out in Rule 16 of this Part of this Schedule, and subject as hereinafter provided, be entitled to mark a ballot paper (in this Schedule called "a tendered ballot paper") in the same manner as any other elector:

Provided that—

- (a) a tendered ballot paper shall be of a colour differing from the other ballot paper; and
- (b) a tendered ballot paper, instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the elector and his number in the register of electors, and set aside in a separate packet, and shall not be counted by the returning officer; and
- (c) the name of the elector and his number in the register of electors, together with the distinctive letter of the parliamentary polling district in which the elector is registered, shall be entered on a list (in this Schedule called "the tendered votes list").

24. An elector who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and proving to his satisfaction the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper so delivered up (in this Schedule called "a spoilt ballot paper"), and the spoilt ballot paper shall be immediately cancelled.

Powers of presiding officer in adjourning poll

25. For the purpose of the adjournment of the poll in the event of riot or open violence and of every other enactment relating to the poll, a presiding officer shall have the power by law belonging to a presiding officer at a parliamentary election.

Packets of ballot papers, &c., to be sealed

26. As soon as practicable after the close of the poll, the presiding officer shall, in the presence of the polling agents, make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals,—

- (a) each ballot box in use at his station, sealed so as to prevent the introduction of additional ballot papers and unopened, but with the key attached;
- (b) the unused and spoilt ballot papers, placed together;
- (c) the tendered ballot papers;
- (d) the marked copies of the register of electors and the counterfoils of the used ballot papers;
- (e) the tendered votes list, the list of blind electors assisted by companions, the list of votes marked by the presiding officer, a state-

ment of the number of electors whose votes are so marked by the presiding officer under the heads "physical incapacity," "Jews," and "unable to read," the declarations made by the companions of blind electors, and the declaration of inability to read;

and shall deliver the packets to the returning officer to be taken charge of by him.

27. The packets shall be accompanied by a statement (in this Schedule referred to as "the ballot paper account") made by the presiding officer showing the number of ballot papers entrusted to him, and accounting for them under the heads of—

- (a) ballot papers in the ballot box ;
- (b) unused and spoilt ballot papers ;
- (c) tendered ballot papers.

COUNTING OF VOTES

Appointment of counting agents

28.—(1) At an election of the county councillors each candidate may appoint an agent to attend at the counting of the votes.

(2) At an election of borough councillors the candidates may severally or jointly appoint an agent to attend at the counting of the votes :

Provided that—

- (a) not more than one agent shall be appointed to attend on behalf of the same candidate ;
- (b) the total number of agents appointed to attend shall not exceed nine or, if the number of candidates exceeds twenty, twelve.

(3) An agent appointed under this rule is in this Schedule referred to as "a counting agent".

(4) Notice in writing of the appointment of a counting agent, stating the name and address of the person appointed, shall be given by the candidate or candidates to the returning officer two clear days at least before the day of election ; and if at an election of borough councillors the number of counting agents appointed exceeds the number permitted by this rule to attend at the counting of the votes, only those counting agents, up to the permitted number, whose appointments are signed by the greater number of candidates or, in the event of an equality in the number of signatures, only such of those counting agents as may be determined by the returning officer, shall be deemed to have been validly appointed.

(5) The returning officer may refuse to admit to the place where the votes are counted any counting agent whose name and address have not been so given notwithstanding that his appointment may be otherwise valid, and any notice required to be given by this Part of this Schedule to a counting agent by the returning officer may be delivered at or sent by post to the address stated in the notice.

(6) If a counting agent dies, or becomes incapable of acting, the candidate or candidates may appoint another counting agent in his place, and shall forthwith give to the returning officer notice in writing of the name and address of the counting agent so appointed.

29. The returning officer shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll, and shall give to the agents notice in writing of the time and place at which he will begin to count the votes.

The count

30. Except with the consent of the returning officer, no person other than the returning officer, the persons appointed to assist him, and the candidates and their counting agents may be present at the counting of the votes.

31. Before the returning officer proceeds to count the votes, he shall in the presence of the counting agents, open each ballot box and, taking out

the ballot papers therein, shall count and record the number thereof, and then mix together the whole of the papers contained in the ballot boxes.

32. The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers.

33. The returning officer shall, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment and excluding (except so far as he may, with the concurrence of the counting agents, if any, otherwise determine) the hours between eight o'clock in the evening and nine o'clock on the succeeding morning. During the excluded time the returning officer shall place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals, and shall otherwise take proper precautions for the security of the ballot papers and other documents.

34. Any ballot paper—

- (a) which does not bear the official mark ; or
- (b) on which votes are given for more candidates than the elector is entitled to vote for ; or
- (c) on which anything is written or marked by which the elector can be identified except the printed number on the back ; or
- (d) which is unmarked or void for uncertainty :

shall not be counted :

Provided that where the elector is entitled to vote for more than one candidate, the ballot paper shall not be deemed to be void for uncertainty as regards any vote as to which no uncertainty arises, and that vote shall be counted.

35.—(1) The returning officer shall endorse—

- (a) the word “rejected” on any ballot paper which under the last preceding rule is not to be counted ; and
- (b) in the case of a ballot paper on which any vote is counted under the proviso to that rule, the words “rejected in part” and a memorandum specifying the votes counted.

(2) The returning officer shall add to the endorsement the words “rejection objected to” if an objection is made by a counting agent to his decision.

(3) The returning officer shall draw up a statement showing the number of ballot papers rejected, including those rejected in part, under the several heads of—

- (a) want of official mark ;
- (b) voting for more candidates than entitled to ;
- (c) writing or mark by which elector could be identified ;
- (d) unmarked or wholly void for uncertainty ;
- (e) rejected in part ;

and shall, on request, allow any counting agent to copy the statement.

36. The decision of the returning officer on any question arising in respect of a ballot paper shall be final, but shall be subject to review on an election petition questioning the election.

Equality of votes

37. Where an equality of votes is found to exist, and the addition of a vote would entitle any of the candidates to be declared elected, the returning officer shall determine by lot which of the candidates whose votes are equal shall be declared to be elected.

Declaration of result

38.—(1) When the result of the poll has been ascertained, the returning officer shall forthwith declare to be elected the candidate or candidates to whom the majority of votes has been given, and shall as soon as possible

publish the name or names of the candidate or candidates elected and the total number of votes given for each candidate, whether elected or not.

(2) The returning officer shall forthwith return the names of the persons elected, in the case of an election of county councillors to the clerk of the county council, and in the case of an election of borough councillors to the town clerk of the borough.

Disposal of ballot papers, &c.

39.—(1) On the completion of the counting, the returning officer shall seal up in separate packets the counted and rejected ballot papers, including ballot papers rejected in part.

(2) The returning officer shall not open the sealed packet of tendered ballot papers or the sealed packet containing the marked copy of the register of electors and counterfoils, but shall proceed, in the presence of the counting agents, to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers recorded by him under rule 31 of this Part of this Schedule, and the unused and spoilt ballot papers in his possession and the tendered votes list, and shall reseal each sealed packet after examination.

(3) The returning officer shall draw up a statement as to the result of the verification and shall, on request, allow any counting agent to copy the statement.

40. The returning officer shall forward to the clerk of the county council, in the case of an election of county councillors, or to the town clerk of the borough, in the case of an election of borough councillors, all the packets of ballot papers in his possession, together with the statements, the ballot paper accounts, tendered votes lists, lists of blind electors assisted by companions, lists of votes marked by the presiding officer, statements relating thereto, declarations made by the companions of blind electors, declarations of inability to read, packets of counterfoils, and marked copies of registers, sent by each presiding officer, endorsing on each packet a description of its contents and the date of the election to which it relates, and the name of the electoral area for which the election was held.

41.—(1) A county court having jurisdiction in the county or borough, as the case may be, or any part thereof, or an election court, on being satisfied by evidence on oath—

- (a) that the inspection or production of any rejected ballot papers, including ballot papers rejected in part ; or
- (b) that the opening of the sealed packet of counterfoils or the inspection of counted ballot papers,

is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning the election, may make an order for the inspection or production of any such ballot papers as aforesaid or the opening of the sealed packet of counterfoils.

(2) An order made under this rule may be made subject to such conditions as to persons, time, place and mode of the inspection or production of ballot papers or of the opening of the sealed packet of counterfoils as the court may think expedient, and may direct the clerk of the county council or the town clerk, as the case may be, having custody of the ballot papers and the sealed packet of counterfoils to retain them intact for such period as may be specified in the order.

(3) Any power given to a county court by this rule may be exercised by a judge of the county court otherwise than in open court.

(4) In making and carrying into effect an order under this rule, care shall be taken that the way in which any particular elector has voted shall not be disclosed until it has been proved that he voted and his vote has been declared by a competent court to be invalid.

(5) An appeal shall lie to the High Court from an order of a county court made under this rule.

42. Except by order of a court made under the last preceding rule, no

person shall be allowed to inspect any ballot papers in the custody of the clerk of the county council or a town clerk, or to open the sealed packet of counterfoils.

43.—(1) Where an order is made for the production by the clerk of the county council or a town clerk of any document in his possession relating to a specified election, the production by that clerk or his agent of the document ordered, in such manner as may be directed by the order, shall be conclusive evidence that the document so produced relates to the specified election; and any endorsement appearing on a packet of ballot papers produced by that clerk or his agent shall be *prima facie* evidence of those papers being what they are stated to be by the endorsement.

(2) The production from proper custody of a ballot paper purporting to have been used at an election, and of a counterfoil marked with the same printed number and having a number marked thereon in writing, shall be *prima facie* evidence that the person who voted by that ballot paper was the person who at the time of that election had affixed to his name in the register of electors in use at that election the same number as the number written on that counterfoil.

44. The clerk of the county council or the town clerk, as the case may be, shall retain for six months among the records of the county or borough all documents relating to an election forwarded to him by the returning officer in pursuance of this Schedule, and then, unless otherwise directed by an order made under rule 41 of this Part of this Schedule, shall cause them to be destroyed.

45. All documents forwarded by a returning officer in pursuance of this Part of this Schedule to the clerk of the county council or to a town clerk, other than ballot papers and counterfoils, shall, during a period of six months from the day of election, be open to public inspection at such time and in such manner as may be determined by the county council or borough council, as the case may require, with the consent of the Secretary of State, and the clerk of the county council or town clerk shall supply copies of or extracts from the said documents to any person making a demand therefor on payment of such fees, and subject to such conditions, as may be determined by the county council or borough council with the consent of the Secretary of State.

46. Subject to the provisions of this Part of this Schedule, the clerk of the county council or the town clerk shall, in respect of the custody and destruction of ballot papers and other documents coming into his possession in pursuance of this Part of this Schedule, be subject to the directions of the county council or the borough council, as the case may be.

GENERAL PROVISIONS AS TO CONTESTED ELECTIONS

47. The returning officer may, if he thinks fit, preside at a polling station, and the provisions of this Part of this Schedule relating to a presiding officer shall apply to a returning officer so presiding with the necessary modifications as to things to be done by the returning officer to the presiding officer, or by the presiding officer to the returning officer.

48.—(1) No returning officer or officer appointed under this Schedule, or a partner or clerk of any such officer, shall act as a polling or counting agent.

(2) If a returning officer or officer appointed under this Part of this Schedule, or a partner or clerk of any such officer, acts as a polling or counting agent in contravention of the provisions of this rule, he shall be guilty of a misdemeanour.

49. No person shall be appointed to act as an officer under this Part of this Schedule for the purposes of an election who has been employed by or on behalf of a candidate in or about the election.

50. A presiding officer may do, by the officers appointed to assist him, any act which is required or authorised by this Part of this Schedule to do at a polling station except ordering the arrest, exclusion, or removal of any person from the polling station.

51. A candidate may himself do any act or thing which an agent of his,

if appointed, would have been authorised or required to do, or may assist his agent in doing any such act or thing.

52. Where by this Part of this Schedule any act or thing is required or authorised to be done in the presence of the agents of the candidates, the non-attendance of any agents or agent at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

53. No person who has voted at an election shall, in any legal proceeding to question the election, be required to state for whom he voted.

54.—(1) Every returning officer, every candidate who proposes to attend at a polling station or at the counting of the votes, and every officer, polling agent or counting agent authorised to attend at a polling station or at the counting of the votes, shall, before the opening of the poll, or in the case of an agent appointed after the opening of the poll before acting as such agent, make a declaration of secrecy in the form set forth in Part III of this Schedule, or in a form as near thereto as circumstances admit.

(2) In the case of a returning officer the declaration shall be made in the presence of a justice of the peace, and in the case of any other officer or of a candidate or an agent the declaration shall be made either in the presence of a justice of the peace or of the returning officer.

(3) Save as aforesaid, no returning officer, candidate, officer or agent as aforesaid shall be required, as such, to make any declaration or to take any oath on the occasion of an election.

(4) Every returning officer, and every candidate, officer, polling agent or counting agent in attendance at a polling station or at the counting of the votes, shall maintain and aid in maintaining secrecy of the voting.

(5) No person, being a returning officer, or a candidate, or an officer appointed under this Part of this Schedule, or a polling agent or a counting agent, shall—

(a) except for some purpose authorised by law, communicate before the poll is closed to any person any information as to —

(i) the name or number on the register of electors of any elector who has or has not applied for a ballot paper or voted at a polling station ; or

(ii) the official mark ;

(b) ascertain or attempt to ascertain at the counting of the votes the number on the back of any ballot paper ;

(c) communicate any information obtained at the counting of the votes as to the candidate for whom any vote is given on any particular ballot paper.

(6) No person, whether or not such an officer, candidate, polling agent or counting agent as aforesaid, shall—

(a) interfere with or attempt to interfere with an elector when recording his vote ;

(b) otherwise obtain or attempt to obtain in a polling station information as to the candidate for whom an elector in that station is about to vote or has voted ;

(c) communicate at any time to any person any information obtained in a polling station as to the candidate for whom an elector in that station is about to vote or has voted, or as to the number on the back of the ballot paper given to an elector at that station ;

(d) directly or indirectly induce an elector to display his ballot paper after he has marked it so as to make known to any person the name of the candidate for whom he has or has not voted.

(7) No person having undertaken to assist a blind elector to vote shall communicate at any time to any person any information as to the candidate for whom that elector intends to vote or has voted, or as to the number on the back of the ballot paper given for the use of that elector.

(8) If any person acts in contravention of any of the provisions of this

rule, he shall in respect of each offence be liable on summary conviction to imprisonment for a term not exceeding six months.

55. Any justice of the peace, any returning officer and any presiding officer may take any declaration authorised by this Part of this Schedule to be made before him.

56.—(1) It shall be the duty of the presiding officer to keep order at his polling station.

(2) If a person misconducts himself in a polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by a police officer in or near that station, or by any other person authorised in writing by the returning officer to remove him, and the person so removed shall not, without the permission of the presiding officer, again enter the polling station during the day.

(3) Any person so removed may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody by a police officer for an offence without a warrant.

(4) The powers conferred by this rule shall not be exercised so as to prevent an elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

57. The forms set forth in Part III of this Schedule, or forms as near thereto as circumstances will admit, shall be used in all cases to which they refer and are applicable, and when so used shall be sufficient in law. [1008]

PART III

FORMS FOR USE AT A CONTESTED ELECTION

FORM A

Form of Ballot Paper

Form of Front of Ballot Paper

Counterfoil
No.

*The counterfoil
is to have a number
to correspond with
that on the back of
the Ballot Paper.*

1	BROWN (John Brown, of 52 George Street, Bristol, merchant.)
2	JONES (William David Jones, of High Elms, Wilts, gentleman.)
3	MERTON (Hon. George Travis, commonly called Viscount Merton, of Swanworth, Berks.)
4	SMITH (Mary Smith, of 72 High Street, Bath, married woman.)

Form of Back of Ballot Paper

No.

Election for the [] electoral division of the administrative county of London [] ward of the metropolitan borough of [].

Note.—The number on the ballot paper is to correspond with that on the counterfoil.

Directions as to printing ballot paper

Nothing is to be printed on the ballot paper except in accordance with this Schedule.

The surname of each candidate, and if there are two or more candidates of the same surname, also the other names of those candidates, shall be printed in large characters, as shown in the form, and the names, places of residence, and descriptions, and the number on the back of the paper, shall be printed in small characters.

FORM B

Form of directions for the guidance of electors in voting

The elector may vote for candidate

The elector will go into one of the compartments, and, with the pencil provided in the compartment, place a cross on the right-hand side of the ballot paper, opposite the name of each candidate for whom he votes, thus X.

The elector will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer, and then, in the presence of the presiding officer, put the paper into the ballot box, and forthwith quit the polling station.

If the elector inadvertently spoils a ballot paper he can return it to the officer, who will, if satisfied of such inadvertence, give him another paper.

If the elector votes for more than candidate, or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the elector fraudently takes a ballot paper out of the polling-station, or fraudently puts into the ballot box any paper other than the ballot paper given him by the officer, he will be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding twenty pounds, or to both such imprisonment and fine.

FORM C

Form of declaration of secrecy

I solemnly promise and declare, that I will at this election maintain and aid in maintaining secrecy of the voting and will not do anything forbidden by paragraphs (5), (6) and (8) of rule 54 in Part II of the Second Schedule to the London Government Act, 1939, which have been read by me.

FORM D

Form of declaration of inability to read

I, A.B., of , being numbered on the register of local government electors for the [] electoral division of the administrative county of London [] ward of the metropolitan borough of], do hereby declare that I am unable to read.

A.B., his mark
day of 19 .

I, the undersigned, being the presiding officer for the polling station for the [] electoral division of the administrative county of London [] ward of the metropolitan borough of],

do hereby certify that the above declaration, having been first read to the above-named *A.B.*, was signed by him in my presence with his mark.

Signed, C.D.,

day of

19 .

Note.—If the person making the above declaration knowingly and wilfully makes therein a statement false in a material particular, he will be guilty of an offence.

FORM E

Form of declaration to be made by the companion of a blind elector

I, *A.B.*, of , having been requested to assist *C.D.*, who is numbered on the register of local government electors for the [electoral division of the administrative county of London] [ward of the metropolitan borough of], to record his vote at the election now being held for the said [electoral division] [ward], do hereby declare that [I am entitled to vote at the said election] [I am the * of the said elector and have attained the age of twenty-one years], and that I have not previously assisted any blind person [except *E.F.* of] to vote at the said election.

Signed, A.B.,

day of

, 19 .

I, the undersigned, being the presiding officer for the polling station for the [electoral division of the administrative county of London] [ward of the metropolitan borough of], do hereby certify that the above declaration, having been first read to the above-named declarant, was signed by the declarant in my presence

Signed, G.H.,

day of

19 ,

minutes past

o'clock in the

noon.

Note.—If the person making the above declaration knowingly and wilfully makes therein a statement false in a material particular, he will be guilty of an offence. [1009]

* State the relationship of the companion to the elector.

This Schedule is based on the provisions of the Ballot Act, 1872; Municipal Corporations Act, 1882; L.G.A. 1888, certain of the L.C.C.(G.P.) Acts, and the Metropolitan Borough Councillors, Election Rules, 1931, 1933 and 1934 (S. R. & O. 1931, No. 22, 1933, No. 1127, and 1934, No. 963).

Section 50.

THIRD SCHEDULE

MEETINGS AND PROCEEDINGS

PART I

County Council

1. **Days and hours of meetings.**—(1) The county council shall in every year hold an annual meeting and such other meetings as it considers necessary for the transaction of its business.

(2) The annual meeting shall be held—

(a) in a year which is the year of election of county councillors, on the sixteenth day of March, or such other day within fourteen days after the eighth day of March as the council may determine ;

(b) in any other year, on such day in the month of March, April or May as the council may determine ;

and at such hour as the council may determine.

(3) The other meetings shall be held on such other days and at such hour as the council may determine.

(4) Meetings of the county council shall be held at such place, either within or without the county, as the council may determine. [1010]

This par. is based on L.G.A. 1888, s. 75 (21) (10 Statutes 749) and the County Councils (Elections) Acts, 1891, s. 1 (3), and 1900, s. 2 (7 Statutes 541, 545).

2. Convening meetings.—(1) The chairman of the county council may call a meeting of the council at any time.

(2) If the chairman refuses to call a meeting of the council after a requisition for that purpose, signed by twenty members of the council, has been presented to him, or if, without so refusing, he does not within seven days after the requisition has been presented to him call a meeting, any twenty members of the council may forthwith on his so refusing or on the expiration of the seven days, as the case may be, call a meeting of the council.

(3) Forty-eight hours at least before a meeting of the county council—

(a) notice of the time and place of the intended meeting, signed by the chairman of the council or by the members calling the meeting, shall be published at the county hall; and where the meeting is called by members of the council the notice shall specify the business proposed to be transacted thereat; and

(b) a summons to attend the meeting, specifying the business proposed to be transacted thereat and signed by the clerk of the county council, shall be left at, or sent by post to, the last-known place of residence of every member of the council:

Provided that—

(i) want of service of the summons on any member of the council shall not affect the validity of a meeting;

(ii) if a member of the council gives notice in writing to the clerk of the council that he desires summonses to attend meetings of the council to be sent to him at some address (to be specified in the notice) other than his place of residence any summons addressed to him and delivered at or sent by post to the address so specified shall be deemed sufficient service of the summons.

(4) Except in the case of business required by this Act to be transacted at the annual meeting of the county council, or except in the case of a matter of urgency brought before the meeting in accordance with any standing order made by the council, no business shall be transacted at a meeting of the council other than that specified in the summons relating thereto. [1011]

This par. is based on pars. 1—6 of the Schedule to L.C.C. (G.P.) Act, 1893 (11 Statutes 1117—1118).

3. Chairman of meeting.—(1) At a meeting of the county council the chairman of the council, if present, shall preside.

(2) If the chairman of the council is absent from a meeting of the council, the vice-chairman or, in his absence, the deputy chairman (if any), of the council, if present, shall preside.

(3) If the chairman, vice-chairman and deputy chairman (if any) are all absent from a meeting of the council, such member of the council as the members present shall choose shall preside. [1012]

This par. follows L.C.C. (G.P.) Act, 1893, Schedule, par. 7 (11 Statutes 1118).

4. Quorum.—No business shall be transacted at a meeting of the county council unless at least one-fourth of the whole number of members of the council are present thereat:

Provided that, where more than one-third of the members of the council become disqualified at the same time, the foregoing provision shall, until the number of members in office is increased to not less than two-thirds of the whole number of members of the council, have effect as if for the reference to the whole number of members of the council there were substituted a reference to the number of members of the council remaining qualified. [1013]

This par. is based on L.C.C. (G.P.) Act, 1893, Schedule, par. 8 (11 Statutes 1118), the proviso being adapted from s. 1 (2) of the Audit (Local Authorities) Act, 1927 (10 Statutes 880).

PART II

Borough Councils

1. Days and hours of meetings.—(1) A borough council shall in every year hold an annual meeting and such other meetings as it considers necessary for the transaction of its business.

(2) The annual meeting shall be held on the ninth day of November at such hour as the council may determine.

(3) The other meetings shall be held on such other days and at such hour as the council may determine. [1014]

This par. is based on M. M. A. A. 1862, s. 37 (11 Statutes 973—974); and the London Government Act, 1899, ss. 2 (5), 3 (3). (*ibid.*, 1226, 1227).

2. Convening meetings.—(1) The mayor of a borough may call a meeting of the borough council at any time.

(2) If the mayor refuses to call a meeting after a requisition for that purpose, signed by one-fourth of the whole number of members of the council, has been presented to him, or if, without so refusing, the mayor does not within seven days after the requisition has been presented to him call a meeting, any members of the council, not being less than one-fourth of the whole number thereof, may forthwith on his so refusing, or on the expiration of those seven days, as the case may be, call a meeting of the council.

(3) Three clear days at least before a meeting of a borough council—

(a) notice of the time and place of the intended meeting shall be published at the offices of the council, and where the meeting is called by members of the council the notice shall be signed those members and shall specify the business proposed to be transacted thereat; and

(b) a summons to attend the meeting, specifying the business proposed to be transacted thereat, and signed by the town clerk, shall be left at, or sent by post to, the last-known place of residence of every member of the council:

Provided that want of service of the summons on any member of the council shall not affect the validity of a meeting.

(4) Except in the case of business required by this Act to be transacted at the annual meeting of a borough council, no business shall be transacted at a meeting of the council other than that specified in the summons relating thereto. [1015]

This par. is based on M.M.A.A. 1856, s. 9 (11 Statutes 960) and the London Government Act, 1899, s. 2 (5) (*ibid.*, 1226).

3. Chairman of meeting.—(1) At a meeting of a borough council the mayor of the borough, if present, shall preside.

(2) If the mayor is absent from a meeting of the borough council, the deputy mayor, if present, shall preside.

(3) If both the mayor and the deputy mayor are absent, such alderman, or in the absence of all the aldermen, such councillor, as the members of the council present shall choose, shall preside. [1016]

This par. is based on M. M. A. 1855, s. 30 (11 Statutes 890—891) and London Government Act, 1899, s. 2 (4) (*ibid.*, 1226).

4. Quorum.—No business shall be transacted at a meeting of a borough council unless at least one-third of the whole number of members of the council are present thereat:

Provided that, where more than one-third of the members of the council become disqualified at the same time, the foregoing provision shall, until the number of members in office is increased to not less than two-thirds of the whole number of members of the council, have effect as if for the reference to the whole number of members of the council there were substituted a reference to the number of members of the council remaining qualified. [1017]

This par. is based on London Government Act, 1899, s. 2 (6) (11 Statutes 1226), as modified by the Audit (Local Authorities) Act, 1927, s. 1 (2) (10 Statutes 880).

PART III

General

1. Decisions on questions.—(1) Subject to the provisions of any enactment (including any enactment in this Act), all acts of a local authority, and all questions coming or arising before a local authority, shall be done and decided by a majority of the members of the authority present and voting thereon at a meeting of the authority.

(2) In the case of an equality of votes, the person presiding at the meeting, whether or not he voted, or was entitled to vote, in the first instance, may give a casting vote. [1018]

This par. is based on M.M.A. 1855, ss. 28, 30 (11 Statutes 890—891), as varied by L.C.C. (G.P.) Act, 1928, s. 31 (*ibid.*, 1412).

2. Names of members present to be recorded.—The names of the members present at a meeting of a local authority shall be recorded. [1019]

3. Minutes.—(1) Minutes of the proceedings of a meeting of a local authority shall be drawn up and printed, and shall be signed at the same or next ensuing meeting of the authority by the person presiding thereat, and any minute purporting to be so signed shall be received in evidence without further proof.

(2) Until the contrary is proved, a meeting of a local authority in respect of the proceedings of which a minute has been so signed shall be deemed to have been duly convened and held, and all the members present at the meeting shall be deemed to have been duly qualified. [1020]

The above two pars. are adapted from M.M.A. 1855, s. 60 (11 Statutes 892), the Municipal Corporations Act, 1882, s. 22 (5), (6) (10 Statutes 584), and par. 10 of the Schedule to L.C.C. (G.P.) Act, 1893 (11 Statutes 1118).

4. Standing Orders.—Subject to the provisions of this Act, a local authority may make standing orders for the regulation of its proceedings and business, and may vary or revoke any such orders. [1021]

This par. is based on L.C.C. (G.P.) Act, 1934, ss. 29 (1) (a) and 30 (1) (a) (27 Statutes 417, 418).

5. Vacancies, &c., not to invalidate proceedings.—The proceedings of a local authority shall not be invalidated by any vacancy among its number, or by any defect in the election or qualification of any of its members. [1022]

This par. is based on M.M.A. 1855, s. 28 (11 Statutes 890) and the Municipal Corporations Act, 1882, s. 22 (4) (10 Statutes 584).

Sections 101
and 102.

FOURTH SCHEDULE

COMPULSORY PURCHASE OF LAND

PART I

Provisions to be incorporated in orders for compulsory purchase

1. The Lands Clauses Acts, except section ninety-two and sections one hundred and twenty-seven to one hundred and thirty-two of the Lands Clauses Consolidation Act, 1845, and, if the Minister so determines, except section one hundred and thirty-three of that Act.

2. Sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845. [1023]

PART II

Modifications subject to which the Lands Clauses Acts are to be incorporated

1. Section eighty-five of the Lands Clauses Consolidation Act, 1845, shall have effect as if the words "with two sufficient sureties to be approved of by two justices in case the parties differ" were omitted therefrom.

2. In lieu of section ninety-two of the Lands Clauses Consolidation Act, 1845, the following provisions shall have effect :—

"No person shall be required to sell a part only of any house, building or manufactory, or of any land which forms part of a park or garden belonging to a house, if he is willing and able to sell the whole of the house, building, manufactory, park or garden, unless the tribunal by which compensation is to be assessed determines that, in the case of a house, building or manufactory, such part as is proposed to be taken can be taken without material detriment to the house, building or manufactory or, in the case of a park or garden, that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house, and, if the tribunal so determines, compensation shall be awarded in respect of the severance of the part so proposed to be taken in addition to the value of that part, and thereupon the person interested shall be required to sell to the local authority that part of the house, building, manufactory, park or garden."

3. Where any land to which an order relates is glebe land or other land belonging to an ecclesiastical benefice, the order shall provide that any sum agreed upon or awarded for the purchase of the land, or to be paid by way of compensation for damage to be sustained by the owner by reason of severance or injury affecting the land, shall not be paid as directed by the Lands Clauses Acts but shall be paid to the Ecclesiastical Commissioners, to be applied by them as money paid to them upon a sale under the provisions of the Ecclesiastical Leasing Acts of land belonging to a benefice. [1024]

This Schedule corresponds to the Sixth Schedule to L.G.A. 1933 (26 Statutes 508). See ss. 101, 102, *ante*.

Section 114.

FIFTH SCHEDULE

ENACTMENTS CONTAINING PROVISIONS AS TO THE ACQUISITION OF AND OTHER DEALINGS IN LAND NOT AFFECTED BY THE PROVISIONS OF PART V OF THIS ACT

The Metropolis Management Acts, 1855 to 1893.

The Electricity (Supply) Acts, 1882 to 1936.

The Lunacy and Mental Treatment Acts, 1890 to 1930.

The Technical and Industrial Institutions Act, 1892.

The Military Lands Acts, 1892 to 1903.

The Public Libraries Acts, 1892 to 1919.

The Allotments Acts, 1908 to 1931.

The Small Holdings and Allotments Acts, 1908 to 1931.

The Development and Road Improvement Funds Act, 1909.

The Air Navigation Acts, 1920 and 1936.

The Education Acts, 1921 to 1937.

The Town and Country Planning Act, 1932.

Parts II and VII of the Public Health (London) Act, 1936.

The Housing Acts, 1936 and 1938.

The Air-Raid Precautions Act, 1937.

Any local Act.

[1025]

With modifications to render it appropriate to London, and up-to-date, the Schedule corresponds to L.G.A. 1933, Seventh Schedule (26 Statutes 509).

Section 152.

SIXTH SCHEDULE

PROVISIONS AS TO MEETINGS AND POLLS OF ELECTORS IN CONNECTION WITH
THE PROMOTION OF BILLS BY BOROUGH COUNCILS

1. Where a borough council has deposited a Bill in Parliament, notice shall be given by placards and by advertisement in one or more local newspapers circulating in the borough in two successive weeks giving brief particulars of the objects of the Bill and stating—

- (a) the title of the Bill ;
- (b) that the Bill has been deposited ;
- (c) that copies of the Bill may be inspected and purchased at a specified place within the borough between the hours of ten in the forenoon and five in the afternoon on any weekday for fourteen days after the date of the first advertisement, and that extracts may be taken free of charge ; and
- (d) that a public meeting of the electors of the borough will be held on a day named, not being less than fourteen nor more than twenty-eight days after the first advertisement of the notice, for the purpose of considering the question of the promotion of the Bill.

2. The first advertisement under this Schedule shall be made within seven days after the first deposit of the Bill in either House of Parliament, and the placards giving notice under this Schedule shall be posted within the same time.

3. A public meeting of the electors of the borough shall be held in accordance with the notice, and the mayor of the borough or, in the event of his being unable or unwilling to preside, a person appointed by the borough council to perform that duty, shall preside at the meeting ; but, if neither the mayor nor the person so appointed is present within ten minutes after the time appointed for the meeting, the meeting shall choose an elector present at the meeting to preside.

4. The person presiding at the meeting may, with the consent of the majority of the electors present, adjourn the meeting for not more than seven days.

5. On opening the meeting the person presiding thereat, or a member or officer of the borough council, shall give such explanation of the Bill as he thinks expedient.

6.—(1) The question of the promotion of the Bill shall be put by the person presiding at the meeting either by a single resolution in favour of the promotion of the whole Bill, or by separate resolutions respectively in favour of the promotion of any provisions of the Bill, but together covering the promotion of the whole Bill, and the meeting shall decide for or against any such resolution.

(2) The person presiding at the meeting shall explain to the meeting the resolution or resolutions he proposes to put to the meeting, and the question of the promotion of the Bill shall be put in the manner proposed :

Provided that if, before any resolution is put, the meeting decides to request the person presiding thereat to put separately any resolution in favour of the promotion of any provision of the Bill not proposed by him to be put separately, he shall put such further or other resolution to the meeting as will, consistently with the provisions of this Schedule, give effect to that request.

7. Unless a poll is demanded in manner provided by this Schedule with respect to any resolution put to the meeting, the decision of the meeting on that resolution, as declared by the person presiding thereat, shall be final.

8. A poll may be demanded with respect to any resolution put to the meeting by not less than one hundred electors or, if the decision of the meeting on a resolution is against the resolution, by the borough council.

9. A requisition for a poll by electors must be in writing, signed by the persons making it, and must be delivered by the mayor of the borough within seven days after the date of the meeting or any adjournment thereof.

10. A requisition for a poll by a borough council must be authorised by a resolution of the council passed at a meeting of the council held within twenty-one days after the date of the meeting of electors, and a copy of the resolution must be delivered to the mayor.

11. The mayor shall proceed by poll to take the opinion of the electors on the resolution to which any requisition relates, unless a poll is rendered unnecessary by the withdrawal of the requisition or by a resolution of the council withdrawing the Bill or the provision to which the resolution with reference to which the poll is demanded relates.

12. The polls on any number of resolutions may be taken at the same time and by means of the same voting paper.

13. The mayor shall cause the votes given at a poll under this Schedule to be counted and shall as soon as practicable declare the result.

14. The decision of the mayor on any question arising in respect of a voting paper shall be final.

15. In the case of an equality of votes given at a meeting held or poll taken under this Schedule, the decision of the meeting, or the result of the poll, shall be deemed to be against the resolution voted upon.

16. If the mayor is unable or unwilling to perform any duty or do any act or thing with respect to a poll under this Schedule, the borough council shall appoint some other person to perform the duty or do that act or thing.

17.—(1) Subject to the provisions of this Schedule, the poll shall be taken in accordance with regulations made by the Minister, and the Minister may prescribe forms for requisitions, voting papers, notices, and other documents under this Schedule, and those forms, or forms to the like effect, shall be used.

(2) Regulations made under this paragraph shall be laid before each House of Parliament as soon as may be after they are made.

18. Any person who at, or for the purposes of, a poll under the provisions of this Schedule—

- (1) fraudulently signs or forges any signature to a requisition of electors ;
or
 - (2) applies for a voting paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person ; or
 - (3) having voted once, applies for a second voting paper in his own name ; or
 - (4) forges or counterfeits, or fraudulently defaces or fraudulently destroys, a voting paper ; or
 - (5) without due authority supplies a voting paper to any person ; or
 - (6) fraudulently puts into any box or other receptacle any paper other than a voting paper supplied to him for the purpose ; or
 - (7) fraudulently takes out of the polling station any voting paper ; or
 - (8) without due authority destroys, takes, opens or otherwise interferes with any box or other receptacle for voting papers or any voting papers then in use ; or
 - (9) causes any disturbance or disorder in or near any polling station ;
- shall in respect of each offence be liable on summary conviction to a fine not exceeding twenty pounds.

19. If any person attempts to commit an offence against the last preceding paragraph of this Schedule, he shall be liable on summary conviction to the same punishment as if he had committed the offence. [1026]

Cf. L.G.A. 1933, Ninth Schedule (20 Statutes 510 et seq.). The Schedule replaces the Borough Funds Act, 1903, First Schedule (10 Statutes 839), and ss. 2 (2) and 5 of that Act (ibid., 837).

Section 205.

SEVENTH SCHEDULE

ENACTMENTS CEASING TO HAVE EFFECT

Session and Chapter.	Title or Short Title	Extent to which enactment shall cease to have effect.
9 Anne, c. 25 -	The Municipal Offices Act, 1710.	The whole Act, except so far as it relates to the City of London.
57 Geo. 3, c. xxix.	An Act for better paving, improving, and regulating the streets of the Metropolis, and removing and preventing nuisances and obstruction therein.	Section fifty-one (which relates to the accountability of the legal representatives of deceased officers). Section ninety-six (which relates to the sale of land) so far as it requires the land to be sold to be offered in the first instance to the person by whom it was acquired.
7 Geo. 4, c. 63 -	The County Buildings Act, 1826.	The whole Act, except so far as it relates to assize courts, sessions houses and judges lodgings.
13 & 14 Vict. c. 101	The Poor Law Amendment Act, 1850.	Section six (which disqualifies masters of workhouses and relieving officers from holding certain offices).
18 & 19 Vict. c. 120	The Metropolis Management Act, 1855.	Section fifty-seven (which relates to the revocation of resolutions). Section sixty-six (which relates to the provision of offices) so far as it requires daily attendance to be given at offices. Section one hundred and thirty-nine (which relates to the joint appointment of officers for parishes or districts). Section one hundred and ninety-one (which relates to the mode of paying off mortgages). Section two hundred and two (which confers powers to make byelaws) so far as it relates to the making of byelaws for regulating the business and proceedings at meetings of a local authority and of committees thereof, and for the appointment, removal, duties, conduct, and remuneration of officers. Section two hundred and thirty-five (which relates to joint action by vestries, etc.).
24 & 25 Vict. c. 125	The Parochial Offices Act, 1861.	Section one (which authorises the provision of offices for parishes).
25 & 26 Vict. c. 102	The Metropolis Management Amendment Act, 1862.	Sections five to eight and thirteen (which relate to the assessment of sums required to meet certain expenses). Section twenty (which authorises the Public Works Loan Commissioners to lend money to a vestry or district board). Section twenty-three (which requires certain votes for sums exceeding twenty thousand pounds to be confirmed at a subsequent meeting).
35 & 36 Vict. c. 91	The Borough Funds Act, 1872.	Section ten (which provides that the Act shall not extend to a bill for an object which can be authorised by provisional order).
36 & 37 Vict. c. 19	The Poor Allotments Management Act, 1873.	Section fifteen (which relates to the disposal of land acquired by churchwardens and overseers).
39 & 40 Vict. c. 61	The Divided Parishes and Poor Law Amendment Act, 1876.	Sections one to nine (which relate to divided parishes).
39 & 40 Vict. c. 62	The Sale of Exhausted Parish Lands Act, 1876.	The whole Act except so far as it relates to the City of London.

Session and Chapter.	Title or Short Title.	Extent to which enactment shall cease to have effect.
42 & 43 Vict. c. 54	The Poor Law Act, 1879.	Sections four to seven (which relate to the adjustment of parish boundaries).
51 & 52 Vict. c. 41	The Local Government Act, 1888.	Section four (which relates to the transfer of certain powers under local Acts). Section ten (which relates to the transfer to county councils of powers of certain Government departments and other authorities), so far as it relates to the powers of Government departments. Section fifty-four (which relates to alterations of boundaries). Section fifty-seven (which relates to alteration of parishes). In section seventy-five (which applies certain provisions of 45 & 46 Vict. c. 50 to county councils), proviso (18), so far as it provides that the costs of an election of county councillors are not to exceed those allowed by Part I of the First Schedule to the Parliamentary Elections (Returning Officers) Act, 1875, as amended by the Parliamentary Elections (Returning Officers) Act, 1885, and proviso (19). In section eighty (which relates to payments out of the county fund) subsection (4).
53 & 54 Vict. c. 5 -	The Lunacy Act, 1890 -	Section one hundred and seventy-four (which provides that members of a visiting committee are not to be interested in contracts made by the committee), except so far as it relates to the City of London. Section two hundred and fifty-six (which relates to contracts made by a visiting committee), except so far as it relates to the City of London.
62 & 63 Vict. c. 14	The London Government Act, 1899.	In section eight (which relates to committees of borough councils), subsection (3). In section nine (which relates to payments to and by borough councils, so much of subsection (1) as requires all cheques for payment of moneys issued in pursuance of an order of a borough council to be countersigned by the town clerk or by a deputy approved by the council).
17 & 18 Geo. 5, c. 14	The Poor Law Act, 1927 -	In section eight (which prohibits paid officers engaged in the administration of the laws for the relief of the poor and other persons from serving as members of county and county borough councils), subsection (2).
26 Geo. 5, & 1 Edw. 8, c. 50.	The Public Health (London) Act, 1936.	In section fifty-seven (which relates to the discharge of offensive liquid refuse into the county council's sewers), so much of subsection (2) as requires the recommendation of a committee to the institution of legal proceedings.

Section 207.

EIGHTH SCHEDULE

ENACTMENTS REPEALED

Session and Chapter.	Title or Short Title.	Extent of Repeal.
22 Hen. 8, c. 5 -	An Acte coñeyng the amend- ment of Bridge in Highe Wayes.	In section three, the words from "and that the same justices" to the end of the section.
9 Anne, c. 25 -	The Municipal Offices Act, 1710.	Section six. The whole Act except so far as it relates to the City of London.
12 Geo. 2, c. 29 -	The County Rates Act, 1738	In section six, the words from "such person or persons" to "appoint to be", and the words from "which treasurer or treasurers" to "re- posed in him or them". Sections seven to nine and eleven. In section fourteen, the words from "such contractor or contractors" to the end of the section.
43 Geo. 3, c. 59 -	The Bridges Act, 1803 -	In section one, the words from "appointed or to be appointed" to "such county".
55 Geo. 3, c. 51 -	The County Rates Act, 1815	Section seventeen.
55 Geo. 3, c. 143 -	The Bridges Act, 1815 -	In section one, the words from "to be appointed" to "for such county". In section five, the words from "Provided nevertheless" to the end of the section.
57 Geo. 3, c. xxix -	An Act for better paving, improving, and regulating the Streets of the Metro- polis, and removing and preventing Nuisances and Obstructions therein.	Sections forty-five to fifty-one. In section ninety-six, the words from "provided the said freehold" to "(mutatis mutandis)". Sections ninety-seven to one hundred and eight. In section one hundred and nine, the words from "assemble and meet" to "and also may", and the words from "and may appoint any per- son" to "deposit as aforesaid". Sections one hundred and ten to one hundred and twenty and one hun- dred and twenty-four. In section one hundred and twenty- nine, the words from "and shall or may be served" to the end of the Section.
58 Geo. 3, c. 69 -	The Vestries Act, 1818 -	Section six.
59 Geo. 3, c. 12 -	The Poor Relief Act, 1819 -	Section seventeen.
7 Geo. 4, c. 63 -	The County Buildings Act, 1826.	The whole Act, except so far as relates to assize courts, sessions houses and judges' lodgings.
7 Will. 4, & 1 Vict. c. 24.	The County Buildings Act, 1837.	The whole Act, except so far as relates to assize courts, sessions houses and judges' lodgings.
7 Will. 4, & 1 Vict. c. 83.	The Parliamentary Docu- ments Deposit Act, 1837.	The whole Act.
2 & 3 Vict. c. 84 -	The Poor Rate Act, 1839 -	Section three.
4 & 5 Vict. c. 38 -	The School Sites Act, 1841 -	In section six, the words from "Pro- vided also that the justices" to the end of the section.
7 & 8 Vict. c. 101 -	The Poor Law Amendment Act, 1844.	Section sixty-one.
10 & 11 Vict. c. 28	The County Buildings Act, 1847.	The whole Act, except so far as relates to assize courts, sessions houses and judges' lodgings.
13 & 14 Vict. c. 101	The Poor Law Amendment Act, 1850.	Section six.
15 & 16 Vict. c. 85	The Burial Act, 1852 -	Sections thirteen to fifteen. In section sixteen, the words from the beginning of the section to "contrary be proved"; and. Sections seventeen, nineteen, twenty and twenty-four.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
15 & 16 Vict. c. 85— <i>contd.</i>	The Burial Act, 1852— <i>contd.</i>	In section twenty-six, the words from "to contract for and purchase" to "think fit, or". Section twenty-eight. In section thirty-one, the words from "which contracts" to the end of the section.
18 & 19 Vict. c. 120	The Metropolis Management Act, 1855.	Sections eight to ten, twenty-eight, thirty, fifty-seven, sixty to sixty-six, ninety-two and one hundred and thirty-nine. In section one hundred and forty-four, the words from "and such Board" to the end of the section. Sections one hundred and forty-nine, one hundred and fifty-five, one hundred and fifty-six, one hundred and eighty-three and one hundred and eighty-five to one hundred and ninety-one. In section two hundred and two, the words from the beginning of the section to "such officers and servants; and". In section two hundred and six, the words from "or wilfully damage" to "Metropolitan Board". In section two hundred and seven, the words "or other such property as aforesaid", Section two hundred and twenty. In section two hundred and twenty-two the words from "and shall be" to the end of the section. Section two hundred and twenty-three and two hundred and thirty-five. Schedules E and F. Sections nine to ten.
19 & 20 Vict. c. 112	The Metropolis Management Amendment Act, 1856.	Sections nineteen to twenty-one.
20 & 21 Vict. c. 81	The Burial Act, 1857 -	The whole Act.
24 & 25 Vict. c. 125	The Parochial Offices Act, 1861.	Sections five to eight, thirteen, nineteen, twenty, twenty-three, thirty-seven and thirty-nine. In section seventy-two, the words from "and the expenses" to "under the firstly-recited Act", and the words from "Provided also" to "such improvements". In section ninety, the words from "or who shall remove" to "board or vestry" where those words last occur. Section one hundred and fourteen. Schedule C.
25 & 26 Vict. c. 102	The Metropolis Management Amendment Act, 1862.	Section three.
26 & 27 Vict. c. 13	The Town Gardens Protection Act, 1863.	Section twenty-six.
29 & 30 Vict. c. 122	The Metropolitan Commons Act, 1866.	Section two, so far as relates to membership of a local authority.
33 & 34 Vict. c. 23	The Forfeiture Act, 1870 -	The whole Act. Section fifteen.
35 & 36 Vict. c. 91	The Borough Funds Act, 1872	
36 & 37 Vict. c. 19	The Poor Allotments Management Act, 1873.	
38 & 39 Vict. c. 17	The Explosives Act, 1875 -	In section seventy-two, the words from "acquire any land" to "to them, and" and the words from "such sums shall be applied" to "defrayed out of the local rate" so far as relates to the county council.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
39 & 40 Vict. c. 61	The Divided Parishes and Poor Law Amendment Act, 1876.	Sections one to nine.
39 & 40 Vict. c. 62	The Sale of Exhausted Parish Lands Act, 1876.	The whole Act, except so far as it relates to the City of London.
39 & 40 Vict. c. 75	The Rivers Pollution Prevention Act, 1876.	In section fourteen, the words from the beginning of the section to "such order and". Section fifteen.
42 & 43 Vict. c. 54	The Poor Law Act, 1879	Sections four to seven.
45 & 46 Vict. c. 56	The Electric Lighting Act, 1882.	In section eight, the words from "on such security" to "such stock as aforesaid". In the Schedule, the entries in the fourth, fifth, sixth and seventh columns.
46 & 47 Vict. c. 52	The Bankruptcy Act, 1883	In section thirty-two, in subsection (1), paragraph (d), except so far as relates to the City of London, and paragraph (e). Section thirty-four, except so far as relates to the City of London.
48 & 49 Vict. c. 10	The Elections (Hours of Poll) Act, 1885.	The whole Act, except so far as it relates to parliamentary elections.
48 & 49 Vict. c. 33	The Metropolis Management Amendment Act, 1885.	Sections seven and eight.
51 & 52 Vict. c. 41	The Local Government Act, 1888.	Sections one and two. In section three, in paragraph (i) the words from "and the making of orders" to "county fund", paragraph (iii), in paragraph (iv) the words "shire halls, county halls" and the words "and county buildings, works and property", paragraphs (vi) and (vii), in paragraph (ix) the word "analyst", and in paragraph (x) the words "the county treasurer, the county surveyor, the public analyst". Section four. In section five, subsection (7). Sections ten and fifteen. In section forty, subsections (1), (4) and (5). In section forty-one, subsection (6). Sections fifty-four and fifty-seven. In section fifty-nine, subsections (1) and (3) to (6). Sections sixty to sixty-two. In section sixty-four, in subsection (3) the words from "shall have full power" to "in the council, but". Sections sixty-five, sixty-eight and seventy-four. In section seventy-five, the words from "Part Two" to "1884", the words from "the Second Schedule" to "Eighth Schedule", provisos (2) to (4), in proviso (5) the words from "so far as respects" to "subsequent to the election", provisos (7), (8), (10), (11) and (15), in proviso (16) the words from "any of the provisions" to "auditors, nor" and the words "subsection five of section fifteen, section sixteen" in paragraph (b), and paragraphs (e) and (g), and provisos (17) to (21). In section seventy-nine, subsection (1), and in subsection (3) the words "lunatic asylums, or". Section eighty.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
51 & 52 Vict. c. 41— <i>contd.</i>	The Local Government Act, 1888— <i>contd.</i>	In section eighty-three, in subsection (4) the words "or clerk of the county council", subsection (6), in subsection (11) the words from "and the clerk of the county council" to the end of the subsection, and subsection (12). In section eighty-seven, in subsection (1) the words from "and in that case" to the end of the subsection, and subsections (3) and (5). Section eighty-eight. In section ninety-two, subsection (1). In section one hundred the words from "In relation to the election" to the end of the section. Sections one hundred and eighteen to one hundred and twenty, one hundred and twenty-two, and one hundred and twenty-four.
53 & 54 Vict. c. 5 -	The Lunacy Act, 1890 -	Section one hundred and seventy-four, except so far as relates to the City of London. In section two hundred and twenty-four, in subsection (3) the words "under the Local Government Act, 1888". In section two hundred and forty the words "respectively constituted" "under the Local Government Act, 1888". Section two hundred and fifty-six, except so far as relates to the City of London.
53 & 54 Vict. c. 71	The Bankruptcy Act, 1890 -	In section nine the words from "It is hereby declared" to the end of the section.
53 & 54 Vict. c. cexliii.	The London Council (General Powers) Act, 1890.	Section twenty-three.
54 & 55 Vict. c. 68	The County Councils (Elections) Act, 1891.	The whole Act.
55 & 56 Vict. c. 15	The Charity Inquiries (Expenses) Act, 1892.	In section one, subsection (2).
55 & 56 Vict. c. 43	The Military Lands Act, 1892	Section four.
55 & 56 Vict. c. 53	The Public Libraries Act, 1892.	In section eleven, in subsection (1), paragraphs (b) and (d). In section fifteen, in subsection (2) the words "also appoint salaried officers and servants and dismiss them, and", and subsection (3), except so far as relates to the City of London. In section nineteen, in subsection (1) the words from "on the security" to the end of the subsection, and subsection (2), except so far as relates to the City of London. Section twenty-three.
55 & 57 Vict. c. 55	The Metropolis Management (Plumstead and Hackney) Act, 1893.	In section three, in subsection (2) the words from "and the vestries" to the end of the subsection, in subsection (3) the words from "and the Board" to the end of the subsection, and subsection (4). Sections four to nine and eleven to thirteen.
56 & 57 Vict. c. cxxi.	The London County Council (General Powers) Act, 1893.	Sections ten to twelve and twenty-four. The Schedule.
56 & 57 Vict. c. 73	The Local Government Act, 1894.	Section thirty-one. Part III.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
56 & 57 Vict. c. 73— <i>contd.</i>	The Local Government Act, 1894— <i>contd.</i>	Sections forty-six, forty-eight, sixty-eight, sixty-nine, seventy-two, seventy-three, eighty, eighty-three and eighty-five to eighty-nine.
57 & 58 Vict. c. 57	The Diseases of Animals Act, 1894.	In section thirty-three, subsection (2), and in subsection (3) the words from "provided that" to the end of the subsection, except so far as relates to the City of London. In section forty, subsection (1), except so far as it relates to the City of London, and in subsection (2), paragraph (i).
58 & 59 Vict. c. 32	The Local Government (Stock Transfer) Act, 1895.	The whole Act.
58 & 59 Vict. c. cxxvii.	The London County Council (General Powers) Act, 1895.	Section forty-four.
61 & 62 Vict. c. cxxxi.	The London County Council (General Powers) Act, 1898.	Section sixty.
62 & 63 Vict. c. 14	The London Government Act, 1899.	Sections one to three. In section four, in subsection (1) the words from "and the clerk of the council" to the end of the subsection. In section five, subsections (3) and (4). In section six, subsections (5) and (6). Sections seven to nine. In section ten, in subsection (1) the words from "for all the expenses" to "general rate, and", and subsection (3). In section eleven, in subsection (1) the words from "and shall appoint" to "duties of overseers". Sections fifteen to eighteen. In section nineteen, subsections (1) and (2). Sections twenty, twenty-one and twenty-four to twenty-seven. In section twenty-eight, subsection (1). In section thirty-one, subsection (4). Sections thirty-two and thirty-three. The First Schedule. In the Second Schedule, so much of Part II as relates to section sixty-five of the Local Government Act, 1888.
62 & 63 Vict. c. 44	The Small Dwellings Acquisition Act, 1899.	In section nine, in subsection (3) the words from the beginning of the subsection to "Public Health Acts: but", and in subsection (10) the words "and those Acts shall apply with the necessary "modifications".
63 & 64 Vict. c. 13	The County Councils (Elections) Amendment Act, 1900.	The whole Act.
2 Edw. 7, c. 17 —	The Midwives Act, 1902 —	Section fifteen.
3 Edw. 7, c. 9 —	The County Councils (Bills in Parliament) Act, 1903.	The whole Act.
3 Edw. 7, c. 14 —	The Borough Funds Act, 1903	The whole Act.
3 Edw. 7, c. 15 —	The Local Government (Transfer of Powers) Act, 1903.	The whole Act.
3 Edw. 7, c. lxxxvii	The London County Council (General Powers) Act, 1903	In section fifty-two the words from "and for the purpose" to the end of the section. Part X.
6 Edw. 7, c. 25 —	The Open Spaces Act, 1906 —	In section seventeen, paragraphs (a) and (b). In section eighteen the words from "in the case of a metropolitan borough" to the end of the section.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
6 Edw. 7, c. 33 -	The Local Authorities (Treasury Powers) Act, 1906.	In section one, in subsection (1) the words "or any local or private Act."
6 Edw. 7, c. cl. -	The London County Council (General Powers) Act, 1906.	Section thirty.
7 Edw. 7, c. 27 -	The Advertisement Regulation Act, 1907.	In section three, subsection (6) except so far as relates to the City of London. In section four the words "in the case of a county out of the county fund".
7 Edw. 7, c. 33 -	The Qualification of Women (County and Borough Councils) Act, 1907.	The whole Act.
7 Edw. 7, c. clxxv -	The London County Council (General Powers) Act, 1907.	In section three, in subsection (2) the words from "In Part VII" to "by the Council". Part VII.
8 Edw. 7, c. 13 -	The Polling Districts (County Councils) Act, 1908.	The whole Act.
9 Edw. 7, c. 34 -	The Electric Lighting Act, 1909.	Section twenty-one.
10 Edw. 7, & 1 Geo. 5, c. cxxix.	The London County Council (General Powers) Act, 1910.	Section forty-five.
2 & 3 Geo. 5, c. cv.	The London County Council (Finance Consolidation) Act, 1912.	Section forty-six.
3 & 4 Geo. 5, c. 28	The Mental Deficiency Act, 1913.	In section thirty-eight, subsection (3).
4 & 5 Geo. 5, c. 21	The County and Borough Councils (Qualification) Act, 1914.	The whole Act.
5 & 6 Geo. 5, c. 64	The Notification of Births (Extension) Act, 1915.	In section two, subsection (2).
5 & 6 Geo. 5, c. ciii.	The London County Council (General Powers) Act, 1915.	Section sixty.
6 & 7 Geo. 5, c. 43	The War Charities Act, 1916	In section two, in subsection (1) the words from "Provided that" to the end of the subsection, except so far as relates to the City of London.
7 & 8 Geo. 5, c. 64	The Representation of the People Act, 1918.	Section ten.
9 & 10 Geo. 5, c. 59	The Land Settlement (Facilities) Act, 1919.	In the Sixth Schedule, paragraph 5. In section twenty-four the words from "and the expenses" to the end of the section.
11 & 12 Geo. 5, c. 51	The Education Act, 1921 -	In section four in subsection (3) the words from "and the meetings" to the end of the subsection. In section ten the words "The minutes of the proceedings of a local education authority, and". Section one hundred and forty-five. In section one hundred and fifty-seven the words "and (5)". In the First Schedule, Parts II and III.
11 & 12 Geo. 5, c. 67	The Local Authorities (Financial Provisions) Act, 1921.	Section three, except the proviso to subsection (3), so far as relates to borough councils.
11 & 12 Geo. 5, c. i.	The London County Council (General Powers) Act, 1921.	Section thirty.
12 & 13 Geo. 5, v. 46	The Electricity (Supply) Act, 1922.	In section two the words "or by a local authority" except so far as relates to the City of London. In section five, in subsection (2), paragraph (b) and the words from "Section twenty-one" to the end of the subsection.
12 & 13 Geo. 5, c. 51	The Allotments Act, 1922 -	In section eighteen, in subsection (1) the words from the beginning of the subsection to "eighty years". and subsection (2).

Session and Chapter.	Title or Short Title.	Extent of Repeal.
13 & 14 Geo. 5, c. 24 14 & 15 Geo. 5, c. lvii.	The Housing, &c. Act, 1923 - The London County Council (General Powers) Act, 1924.	In section twenty-two, paragraph (f). In section four the definition of "statutory borrowing power" Sections fifty-five and sixty. Section six.
14 & 15 Geo. 5, c. lx	The London County Council (Money) Act, 1924.	The whole Act.
15 & 16 Geo. 5, c. 11	The Borough Councillors (Alteration of Number) Act, 1925.	
15 & 16 Geo. 5, c. 50	The Theatrical Employers Registration Act, 1925.	In section twelve, in subsection (2) the words from "and in the case" to the end of the subsection.
16 & 17 Geo. 5, e. 59	The Coroners (Amendment) Act, 1926.	In section one, subsection (3), except so far as relates to the City of London.
16 & 17 Geo. 5, c. xxviii.	The London County Council (General Powers) Act, 1926.	Sections thirty-six and forty-three.
17 & 18 Geo. 5, c. 14 17 & 18 Geo. 5, c. 31	The Poor Law Act, 1927 - The Audit (Local Authorities) Act, 1927.	The whole Act so far as unrepealed. The whole Act.
17 & 18 Geo. 5, c. xxii.	The London County Council (General Powers) Act, 1927.	Sections fifty-seven and sixty-two.
18 & 19 Geo. 5, c. lxxvii.	The London County Council (General Powers) Act, 1928.	Section thirty-one.
19 & 20 Geo. 5, c. 17	The Local Government Act, 1929.	Sections nine, ten and forty-eight. Section fifty-one, except so far as relates to the City of London. Section sixty-four. In section one hundred and fifteen, subsection (2), and in subsection (6) the words "and the Seventh Schedule to this Act", except so far as relates to the City of London. In section one hundred and twenty- nine, in subsection (1) the words from "and such inspectors" to the end of the subsection, and subsection (4). The Seventh Schedule, except so far as relates to the City of London.
19 & 20 Geo. 5, c. lxxxvii.	The London County Council (General Powers) Act, 1929.	Sections fifty-nine, sixty-one and sixty-two.
20 & 21 Geo. 5, c. 17	The Poor Law Act, 1930 -	Section seven. In section ten, in subsection (3) the words from "and the amount and nature" to "give security". Sections one hundred and ten and one hundred and fourteen. In section one hundred and thirty- six, in subsection (1), paragraph (e). Sections one hundred and forty, one hundred and forty-four and one hundred and fifty-five. In section one hundred and sixty, subsections (2), (4), (5) and (7). Section forty-nine.
21 & 22 Geo. 5, c. lix.	The London County Council (General Powers) Act, 1931.	In section thirty-eight, in subsec- tion (1) the words from "and the costs incurred" to the end of the subsection, subsection (2), and in subsection (3) the words from "and may confer" to the end of the subsection. In section fifty, in subsection (8) the words from "in like manner" to the end of the subsection.
22 & 23 Geo. 5, c. 48	The Town and Country Plan- ning Act, 1932.	In section twenty-seven, subsection (3). In section ninety-six, in subsection (5), paragraph (a). In section ninety-eight, subsection (2).
23 & 24 Geo. 5, c. 12	The Children and Young Persons Act, 1933.	

Session and Chapter.	Title or Short Title.	Extent of Repeal.
23 & 24 Geo. 5, c. xxviii. 24 & 25 Geo. 5, c. xl.	The London County Council (General Powers) Act, 1933. The London County Council (General Powers) Act, 1934.	Section sixty-five. In section sixty-seven, subsection (1). In section three, in subsection (1) the definition of "British consular officer" and "local government elector". Parts IV, V and VI. Sections sixty-two and seventy-six. The Schedule. Section sixty-two, sixty-three and sixty-five. In section three hundred and forty-two, in subsection (2), paragraph (ii) Sections seven and eight. In section nine, subsections (1), (2), (3) and (8). Sections ten to twelve. In section fifty-seven, in subsection (2) the words from "in pursuance of" to "of the sewers". Section seventy-four. In section ninety-six, subsection (5). In section one hundred and sixty-seven, subsections (3) and (4). In section one hundred and sixty-eight, subsection (1). Sections one hundred and seventy-five and one hundred and seventy-six. In section one hundred and ninety-two, subsection (10) so far as it relates to membership of a local authority. In section two hundred and thirty, in subsection (1), paragraph (a). In section two hundred and sixty-seven, in subsection (2), paragraph (a). Section two hundred and seventy-three, so far as it relates to borough councils. In section two hundred and seventy-five, in subsection (1), paragraphs (b) and (c) so far as they relate to a local authority. Section two hundred and eighty-four, so far as it relates to a local authority. In section two hundred and eighty-seven, subsection (2). Section two hundred and eighty-eight. In section two hundred and ninety, subsection (1). In section two hundred and ninety-seven, subsections (2) to (4). In section three hundred, subsection (1), so far as it relates to a local authority. Section three hundred and one, so far as it relates to a local authority. Section three hundred and three, so far as it relates to section thirty-four of the Public Health Act, 1872. In the First Schedule, Part V. In the Second Schedule, so much of Part I as applies, sections sixty-two, one hundred and thirty-nine, one hundred and forty-nine and one hundred and fifty-six of the Metropolis Management Act, 1855, and section twenty of the Metropolis Management Amendment Act, 1862.
25 & 26 Geo. 5, c. xxxiii. 26 Geo. 5, & 1 Edw. 8, c. 49. 26 Geo. 5, & 1 Edw. 8, c. 50.	The London County Council (General Powers) Act, 1935. The Public Health Act, 1936. The Public Health (London) Act, 1936.	

Session and Chapter.	Title or Short Title.	Extent of Repeal.
26 Geo. 5, & 1 Edw. 8, c. 51.	The Housing Act, 1936	- In section eight, subsection (5). In section eighty-four, subsection (6). In section one hundred and seventeen, in subsection (1) the words "or by the council of a metropolitan borough". In section one hundred and nineteen, paragraph (c) and proviso (ii). In section one hundred and eighty-three, subsection (1). Section one hundred and eighty-five, except so far as it relates to the City of London. Section one hundred and eighty-six. Sections forty-two, forty-four, fifty and fifty-five. Section one hundred and thirty-one.
26 Geo. 5, & 1 Edw. 8, c. lx.	The London County Council (General Powers) Act, 1936.	
1 Edw. 8, & 1 Geo. 6, c. xvi.	The London County Council (General Powers) Act, 1937.	
1 & 2 Geo. 6, c. 56	The Food and Drugs Act, 1938.	In section seventeen, subsection (4) so far as it relates to a local authority. In section seventy-five, in subsection (1) the words "or by the council of a metropolitan borough". In section ninety-six, paragraph (b) of subsection (2).

[1028]

THE LONDON BUILDING ACTS (AMENDMENT) ACT, 1939

(2 & 3 Geo. 6, c. xcvi)

An Act to amend the enactments relating to streets buildings and structures in London. [1029] [4th August, 1939.]

PART I

INTRODUCTORY

1. Short title, construction and citation.—This Act may be cited as the London Building Acts (Amendment) Act, 1939 and shall be read and construed as one with the London Building Acts, 1930 and 1935 and may be cited with those Acts as the London Building Acts, 1930 to 1939. [1030]

2. Division of Act into Parts.—This Act is divided into Parts as follows:—

- Part I.—Introductory.
- Part II.—Naming and numbering of streets buildings, &c.
- Part III.—Construction of buildings.
- Part IV.—Special and temporary buildings and structures.
- Part V.—Means of escape in case of fire.
- Part VI.—Rights, &c. of building and adjoining owners.
- Part VII.—Dangerous and neglected structures.
- Part VIII.—Sky signs.
- Part IX.—Superintending architect district surveyors and fees.
- Part X.—Bye-laws.
- Part XI.—Legal proceedings.
- Part XII.—Miscellaneous. [1031]

3. Commencement of Act.—This Act shall come into operation on the first day of January nineteen hundred and forty. [1032]

4. Interpretation.—(1) In this Act save as is otherwise expressly provided therein and unless the context otherwise requires the following expressions have the meanings hereby respectively assigned to them :—

“ Act of 1930 ” means the London Building Act, 1930 ;

“ Act of 1935 ” means the London Building Act (Amendment) Act, 1935 ;

“ builder ” means the person who is employed to build or to execute work to in or upon a building or structure or where no person is so employed the owner of the building or structure ;

“ cubical extent ” in relation to the measurement of a building means the space contained within the external surfaces of its walls and roof and the upper surface of the floor of its lowest storey but excluding any space within any enclosure on the roof of the building used exclusively for accommodating a water tank or lift gear or any like apparatus :

Provided that where a building on one or more of its sides is not enclosed by a wall or walls the building where unenclosed shall be deemed to be enclosed by walls with the external surface thereof in a vertical plane extending downwards from the outer edge of the roof ;

“ district surveyor ” means any person appointed or deemed to be appointed under this Act to the office of district surveyor and includes any person who under this Act is appointed to act as the deputy to any district surveyor so appointed or to act temporarily as a district surveyor in respect of the time during which he so acts ;

“ domestic building ” includes a dwelling-house and any other building not being either a public building or a building of the warehouse class and for the purposes of Part V (Open spaces about buildings and height of buildings) of the Act of 1930 includes also a building (whether a public building or not) which is used wholly or partly as an hotel or hospital or as a school college or other place of instruction ;

“ existing district surveyor ” means a person who at the commencement of this Act holds the office of district surveyor ;

“ functions ” includes powers and duties ;

“ height ” in relation to any building means the measurement taken at the centre of the face of the building from the level of the footway immediately in front of such face or where there is no such footway from the level of the ground before excavation to the level of the top of the parapet or where there is no parapet to the level of the top of the external wall or in the case of a gabled building to the level of the base of the gable ;

“ inhabited ” in relation to any room means that the room is one in which some person passes the night or which is used as a living room or with respect to which there is a presumption until the contrary is shown that some person passes the night therein or that it is used as a living room ;

“ London Building Acts ” means the Act of 1930 the Act of 1935 and this Act ;

“ metropolitan borough council ” in relation to any building structure place land or thing or any proposed building structure or

thing means the council of the metropolitan borough within which the building structure place land or thing is or the proposed building structure or thing will be ;

“noxious business” means any business which is referred to in section 140 of the Public Health (London) Act, 1936 or is in pursuance of that section declared to be an offensive business but does not include the business of a soap boiler or tallow melter knacker fellmonger tripe boiler or slaughterer of cattle or horses ;

“occupier” (except in Part V (Means of escape in case of fire) of this Act) does not include a lodger and the expressions “occupy” and “occupation” shall be construed accordingly ;

“party fence wall” means a wall (not being part of a building) which stands on lands of different owners and is used or constructed to be used for separating such adjoining lands but does not include a wall constructed on the land of one owner the artificially formed support of which projects into the land of another owner ;

“party structure” means a party wall and also a floor partition or other structure separating buildings or parts of buildings approached solely by separate staircases or separate entrances from without ;

“party wall” (except in Part VI (Rights, &c. of building and adjoining owners) of this Act) means so much of a wall which forms part of a building as is used or constructed to be used for separating adjoining buildings belonging to different owners or occupied or constructed or adapted to be occupied by different persons together with the remainder (if any) of the wall vertically above such before-mentioned portion of the wall ;

“public building” means—

(a) a building used wholly or partly as a church chapel or other place of public worship (not being a dwelling-house so used) or as a public assistance institution or public library or as a place for public entertainments public balls public dances public lectures or public exhibitions or otherwise as a place of public assembly ; or

(b) a building of a cubical extent exceeding two hundred and fifty thousand cubic feet which is used wholly or partly as an hotel or hospital or as a school college or other place of instruction ;

and includes the buildings and premises of the Stock Exchange within the city ;

“railway company” includes the London Passenger Transport Board in respect of the railway undertaking of that board and also includes any statutory committee of railway companies ;

“superintending architect” means the person appointed under the London Building Acts as the superintending architect of metropolitan buildings for the time being and includes any person duly appointed as deputy to the superintending architect in respect of the time during which he so acts ;

“tribunal of appeal” means the tribunal of appeal constituted in accordance with the provisions of this Act ; [1088]

(2) The definitions assigned by section 5 (Definitions) of the Act of 1930 to the following terms being terms which are defined in sub-section (1) of this section namely "builder" "cubical extent" "district surveyor" "domestic building" "height" "inhabited" "noxious business" "occupier" "party fence wall" "party structure" "party wall" "public building" "superintending architect" and "tribunal of appeal" and the definitions assigned by the said section 5 to the terms "base" "bressummer" "certified building" "cross wall" "fire-resisting materials" "first storey" "foundation" "girder" "high building" "pillar" and "upper storey" shall cease to have effect except as regards anything done or begun or any proceeding instituted before the commencement of this Act. [1034]

(3) Any reference in this Act to byelaws made in pursuance of the London Building Acts shall be construed as including a reference to byelaws made or having effect as if made in pursuance of any of those Acts. [1035]

(4) Any reference in the London Building Acts to any enactment shall be construed as a reference to that enactment as applied extended amended or varied by or by virtue of any subsequent enactment including this Act. [1036]

For the Act of 1930, see 23 Statutes 213 *et seq.*, and for the Act of 1935 see 28 Statutes 139 *et seq.*

The expressions mentioned in the first part of sub-s. (2) were defined in different terms in the Act of 1930. The definitions in sub-s. (2) of this section are now substituted. See s. 1, *ante*.

PART II

NAMING AND NUMBERING OF STREETS, BUILDINGS, ETC.

5. Giving of names to streets &c.—Subject to the provisions of section 6 (Assigning of names to streets, &c.) of this Act a name shall not be given to a street way place row of houses or block of buildings—

- (a) unless at least one month's notice of the intended name has been given to the Council;
- (b) if the Council within one month of the giving of such notice have given notice to the person by whom such first-mentioned notice was given stating that they object to the intended name;

and it shall not be lawful to set up any name as the name of any street way place row of houses or block of buildings until the expiration of one month after receipt by the Council of the notice referred to in paragraph (a) of this section or to set up any name objected to as aforesaid. [1037]

Part IV of the Act of 1930 (23 Statutes 234 *et seq.*) naming conferred powers on the L.C.C. as to the numbering of streets. That part reproduced with certain amendments ss. 32—38 of the L.B.A., 1894, as amended, and is now itself repealed entirely and replaced by the wider powers contained in this and the following sections of this Part.

Sect. 33 of the Act of 1930 (*loc. cit.*), which is replaced by this section, applies only to the naming of streets. By the present section the power is extended to minor ways and to blocks of buildings (including flats). The L.C.C. will thus be able to avoid duplication in the naming of flats as well as streets.

6. Assigning of names to streets &c.—(1) The Council may by order assign any name which they think fit to any street way place row of houses or block of buildings whether or not in substitution for a name already given or assigned.

(2) Before making an order under this section the Council shall give notice of their intention of so doing to the local authority and shall also

at their option either cause notice of their intention to be posted in some conspicuous position in the street way or place or adjacent to the row of houses or block of buildings as the case may be or given notice of their intention by circular delivered at every building situate in the street way or place or forming part of the row of houses or block of buildings as the case may be.

(3) Every such notice shall state the manner in which and the time (being not less than one month after the date of the notice) within which objections to the intended order may be sent to the Council and the Council shall before making the order consider any objection so sent to them and may if they think fit having regard to any such objection amend any name which they have proposed to assign. [1038]

See note to previous section.

Sects. 36 and 37 of the Act of 1930, which are replaced by this section, empowered the L.C.C. by order to alter the name of any existing street. Under those powers and under ss. 34 and 35 of the Act of 1894 the L.C.C. have for some years past revised the nomenclature of London streets to avoid duplication. By the present section these powers are extended to the naming and renaming of minor ways and blocks of buildings.

7. Notification to local authority as to names of streets &c.—The Council shall inform the local authority—

- (a) of the intended name of a street way place row of houses or block of buildings of which they have under section 5 (Giving of names to streets, &c.) of this Act received notice if on the expiration of one month they have not given notice under that section of objection to that name; and
- (b) of any name which they have under section 6 (Assigning of names to streets, &c.) of this Act by order assigned to any street way place row of houses or block of buildings. [1039]

8. Setting up of names of streets &c.—(1) Subject to the provisions of this section the local authority shall cause the name lawfully given or assigned to every street way place row of houses or block of buildings to be set up and kept set up in accordance with any regulations made in pursuance of section 9 (Regulations as to setting up of names of streets, &c.) of this Act.

(2) Where a name has been given or an order has been made assigning a name to a block of buildings in pursuance of this Part of this Act the local authority shall give notice to the owner of the block of buildings requiring him to set up in accordance with regulations as aforesaid the name so given or ordered and in the case of an order assigning a name to the block of buildings in substitution for a name already given or assigned to remove within such time as may be specified in the notice any name of the block of buildings which differs from that mentioned in the order.

(3) Whenever the marking of a name lawfully given or assigned to a block of buildings is destroyed pulled down defaced obliterated or obscured the owner of the block of buildings shall within the time specified in a notice from the local authority requiring him so to do renew the marking in accordance with regulations as aforesaid.

(4) If any notice by a local authority in pursuance of this section is not complied with the local authority shall cause the name of the block of buildings to be set up or renewed in accordance with regulations as aforesaid and any name of the block of buildings which differs from that mentioned in the order to be removed. [1040]

9. Regulations as to setting up of names of streets &c.—The Council shall make regulations with respect to the setting up of the names of streets ways places rows of houses or blocks of buildings and matters in connection therewith and without prejudice to the generality of the foregoing provision such regulations may provide for the name to be placed on part of a building or structure and in such position thereon as may be prescribed by the regulations. [1041]

10. Wrongful setting up of names of streets &c.—No person shall—

- (a) set up in or on any street way place row of houses or block of buildings as the case may be any name thereof different from the name lawfully given or assigned thereto ;
- (b) set up in or on any street way place row of houses or block of buildings the name thereof except in accordance with any regulations made in pursuance of section 9 (Regulations as to setting up of names of streets, &c.) of this Act ;
- (c) place or affix any notice or advertisement within twelve inches of any marking of the name of a street way place row of houses or block of buildings lawfully set up ;
- (d) otherwise than for the purpose of renewing the same destroy pull down deface obliterate or obscure or permit or suffer to be destroyed pulled down defaced obliterated or obscured any marking of the name of a street way place row of houses or block of buildings lawfully set up :

Provided that paragraph (d) of this section shall not apply where the marking is destroyed pulled down defaced obliterated or obscured in connection with the demolition alteration or erection of a building or structure or any part thereof if notice of the intention so to do is given to the local authority not less than three days before the marking is destroyed pulled down defaced obliterated or obscured. [1042]

11. Numbering or naming of buildings.—(1) The Council may order that any buildings in any street way place row of houses or block of buildings shall for the purpose of distinguishing them be marked (whether already marked by a number or name or not) with such numbers or names or numbers and names as may be specified in the order or shown upon a plan referred to in the order and that any existing numbers or names which differ from those specified in the order shall be abolished.

(2) For the purpose of subsection (1) of this section a number followed by a letter or a fraction shall be deemed to be a number.

(3) Where a name has been given otherwise than in pursuance of subsection (1) of this section to a building and is in the opinion of the Council unsuitable or likely to cause delay or inconvenience in executing any public service they may without prejudice to the exercise from time to time of the powers of the Council under the said subsection (1) by order assign a name to the building in substitution for such first-mentioned name.

(4) (a) Before making an order under this section as respects the substitution of a name of a building for an existing name thereof the Council shall give notice of their intention of so doing to the owner of the building.

(b) Every such notice shall state the manner in which and the time (being not less than one month after the date of the notice) within which

objections to the intended order may be sent to the Council and the Council shall before making the order consider any objection so sent to them and may if they think fit having regard to any such objection amend any name which they have proposed to assign.

(5) Whenever the Council have made an order under this section they shall transmit a copy thereof to the local authority and it shall be the duty of the local authority to perform all necessary acts and to take all requisite proceedings for carrying the order into effect.

(6) The local authority shall give notice to the owner or occupier of every building to which an order made by the Council under this section relates requiring him to mark the building or some part of the premises of which the building forms part with the number or name or number and name which the Council have ordered in accordance with any regulations made in pursuance of section 12 (Regulations as to marking of numbers and names of buildings) of this Act and to remove within such time as may be specified in the notice any number or name marked on the building or on the premises of which the building forms part which differs from that specified in the order.

(7) Whenever the marking of a number or name or number and name of a building assigned by an order of the Council is destroyed pulled down defaced obliterated or obscured the owner or occupier of the building shall within the time specified in a notice from the local authority requiring him so to do renew the marking in accordance with regulations as aforesaid.

(8) If any notice by a local authority in pursuance of this section is not complied with the local authority shall cause the number or name or number and name of the building to be marked in accordance with regulations as aforesaid and any number or name which differs from that specified in the order to be removed.

(9) So much of this section as relates to names shall not apply—

- (a) to a theatre cinematograph theatre or music hall; or
- (b) to premises which are at the date of the passing of this Act licensed for the sale of intoxicating liquor for consumption on the premises or any premises erected in substitution therefor so long as the premises are so licensed. [1043]

12. Regulations as to marking of numbers and names of buildings.—The Council shall make regulations with respect to the marking of the numbers or names or numbers and names of buildings in a street way place row of houses or block of buildings and without prejudice to the generality of the foregoing provision such regulations may provide for the number or name or number and name of any building to be marked in some appropriate position either on the building or on some part of the premises of which the building forms part as may be prescribed by the regulations. [1044]

13. Offences as to numbering or naming of buildings.—No person shall—

- (a) mark on any building or on the premises of which the building forms part any numbering or name thereof—
 - (i) different from a number or name lawfully given thereto or ordered in respect thereof; or
 - (ii) except in accordance with any regulations made in pursuance of section 12 (Regulations as to marking of numbers and names of buildings) of this Act;

- (b) otherwise than for the purpose of renewing the same destroy pull down deface obliterate or obscure or permit or suffer to be destroyed pulled down defaced obliterated or obscured the marking of any number or name as the case may be lawfully given to or ordered in respect of any building :

Provided that—

- (A) where any premises are used for the purposes of any commercial undertaking (including any theatre cinematograph theatre or music hall or any premises which are at the date of the passing of this Act licensed for the sale of intoxicating liquor for consumption on the premises or any premises erected in substitution therefor so long as the premises are so licensed) proceedings for an offence under paragraph (ii) of paragraph (a) of this section shall not be taken by reason only of the fact that the name lawfully given to the building in addition to being marked thereon or affixed thereto in accordance with any regulations made in pursuance of section 12 (Regulations as to marking of numbers and names of buildings) of this Act is also marked otherwise than in accordance with such regulations if such additional marking does not obscure or obliterate the name as marked or affixed to the building in accordance with such regulations ;
- (B) paragraph (b) of this section shall not apply where the marking of the number or name or number and name as the case may be of a building is destroyed pulled down defaced obliterated or obscured in connection with the demolition alteration or erection of a building or any part thereof if notice of the intention so to do is given to the local authority not less than three days immediately before the marking of the number or name or number and name as the case may be is destroyed pulled down defaced obliterated or obscured. [1045]

14. Record of names of streets &c. and numbers or names of buildings.—(1) The Council shall keep a record of—

- (a) the names lawfully given or assigned to streets ways places rows of houses or blocks of buildings ; and
- (b) the numbers or names or numbers and names with which they order buildings to be marked ;

and such record shall be kept in such form as to show—

- (i) as respects alterations in the names of streets made by order or resolution since the first day of January eighteen hundred and fifty-six the date of the order or resolution by which such alteration was made and as respects names assigned to streets ways places rows of houses or blocks of buildings after the commencement of this Act the date of the order assigning the name and the immediately previous name or names (if any) borne by the street way place row of houses or block of buildings ; and
- (ii) the date of the order assigning numbers or names or numbers and names to buildings or assigning a name to a building in substitution for another name and the immediately previous numbers and names (if any) of the buildings.

(2) It shall upon payment of such reasonable fee as the Council may from time to time determine be lawful—

- (a) for any person at any reasonable hour to inspect such record and to take a copy of any portion thereof; and
- (b) for the Council to furnish a copy or information as to the contents of any portion of such record to any applicant. [1046]

This section replaces s. 41 of the Act of 1930 (23 Statutes 236) extending its provisions to minor ways and to blocks of buildings.

15. Proceedings by local authority.—(1) Proceedings for the recovery of a fine in respect of any contravention of or failure to comply with the provisions of section 10 (Wrongful setting up of names of streets, &c.) or section 13 (Offences as to numbering or naming of buildings) of this Act may be taken by the local authority.

(2) Where a local authority are required or empowered by this Part of this Act in default of any other person to cause the name of a block of buildings or a number or a name or a number and name of a building to be set up marked renewed or removed they may recover the expenses of so doing from the owner or owners of the block of buildings or part thereof or the owner or occupier of the building as the case may be.

(3) All powers rights and remedies given to a local authority by this Part of this Act shall be deemed to be in addition to and not in derogation of any other powers rights or remedies conferred on them by any other Act. [1047]

PART III

CONSTRUCTION OF BUILDINGS

16. Use of external wall as party wall.—An external wall or part of an external wall shall not be used as a party wall unless it conforms as a party wall with the requirements of the London Building Acts and with any bye-laws made in pursuance of those Acts. [1048]

For the requirements of the London Building Acts as to party walls, see ss. 64—66 of the Act of 1930 (23 Statutes 250—251). Note that Part VI (Construction of Buildings) of the Act of 1930 is repealed by this Act.

17. Alterations to party walls.—(1) Except in accordance with the provisions of the London Building Acts and any bye-laws made in pursuance of those Acts an opening shall not without the consent of the Council be made in any party wall:

Provided that as respects any opening existing at the passing of this Act in such portion of a party wall as does not separate adjoining buildings nothing in this subsection shall in the event of such wall being demolished and reconstructed but subject always to the provisions of section 21 (Uniting of buildings) of this Act prevent the making (in pursuance of the exercise of any easement of light or other easement existing at the said date in or relating to the party wall) in the wall so reconstructed of an opening of the same size and in the same position as the opening existing at the said date in the party wall demolished and the proof of the existence at the said date of any opening in such a party wall and of any easement in or relating to the party wall shall lie on the builder.

(2) A chimney, chimney breast or chimney shaft built with or in any party wall shall not be cut away wholly or in part unless the district surveyor certifies that it can be done without injuriously affecting the stability of any building. [1049]

18. Bay windows oriel windows and turrets.—Unless the Council otherwise consent no bay window oriel window or turret shall be constructed in any building so that it is in any part nearer to the centre of any party wall than the extreme extent of the projection from the building of the bay window oriel or turret. [1050]

19. Roof drainage.—(1) Unless the Council after consultation with the local authority otherwise consent the roof of every building and every projecting window balcony verandah shop front or other similar projection shall be so arranged and constructed and so supplied with gutters and pipes as to prevent the water therefrom from dropping upon or running over any public way ;

Provided that the requirements of this subsection shall not apply to any shop front which does not project more than ten inches beyond the external wall of the building to which it belongs.

(2) The provisions of the foregoing subsection shall not prejudice or affect the powers of the local authority under section 37 (For preventing water flowing on footpath) of the London County Council (General Powers) Act 1928. [1051]

For s. 37 of the L.C.C. (G.P.) Act, 1928, see 11 Statutes 1413.

20. Precautions against fire in certain buildings and cubical extent of buildings.—(1) Unless the Council otherwise consent—

(a) no building shall be erected with a storey or part of a storey at a greater height than—

(i) one hundred feet ; or

(ii) eighty feet if the area of the building exceeds ten thousand square feet ;

(b) no building of the warehouse class and no building or part of a building used for purposes of trade or manufacture shall be of a cubical extent exceeding two hundred and fifty thousand cubic feet unless it is divided by division walls in such manner that no division of the building or part of the building as the case may be is of a cubical extent exceeding two hundred and fifty thousand cubic feet :

Provided that the Council shall not withhold consent under paragraph (a) of this subsection if they are satisfied that having regard to the proposed use to which the building is to be put proper arrangements will be made and maintained for lessening so far as is reasonably practicable danger from fire in the building.

(2) In granting consent under this section the Council may without prejudice to any other power to attach terms and conditions to the consent give the consent subject to conditions restricting the user of the building or part of the building or relating to the provision and maintenance of proper arrangements for lessening so far as is reasonably practicable danger from fire in the building or part of the building.

(3) The measurement of the height of any such storey or part of a storey as is mentioned in this section shall be taken at the centre of that face of the building where the measurement is greatest from the level of the footway immediately in front of that face or where there is no such footway from the level of the ground before excavation to the level of the highest part of the interior of the storey.

(4) The provisions of this section shall not apply to any building which being at a greater distance than two miles from Saint Paul's Cathedral is used solely for the manufacture of the machinery and

boilers of steam vessels or for a retort house and which consists of one floor only and is constructed throughout of brick stone iron or other incombustible materials. [1052]

See ss. 51 and 52 of the Act of 1930 (23 Statutes 243—244).

21. Uniting of buildings.—(1) Buildings shall be deemed to be united when any opening is made in the party wall or the external walls separating the buildings or when the buildings are so connected that there is access from one building to the other without passing into the external air and a building shall be deemed to be united with an underground railway station when the building and the underground railway station are so connected that there is access from the building to the underground railway station without passing into the external air.

(2) Buildings shall not without the consent of the Council be united unless they are wholly in one occupation and when so united and considered as one building would be in conformity with the London Building Acts and any bye-laws made in pursuance of those Acts.

(3) A building (not being part of a railway station) shall not without the consent of the Council be united with an underground railway station unless the building to be united is solely in the occupation of the railway company to whom the underground railway station belongs and the means of access between the building and the station is afforded by a doorway in the building opening into a passage or subway used solely as an approach to or exit from the underground railway station and a lobby inside the building leading from the doorway and unless—

- (a) the floor jams and head of the doorway and the floor ceiling and enclosures of the lobby are constructed of incombustible materials not less than three inches in thickness;
- (b) the full extent of the opening of the doorway and the entrance to the lobby inside the building are each fitted with self-closing doors possessing such a degree of resistance to the action of fire as the Council may determine;
- (c) the doors open inwards towards the building and with the doorways and lobby are so constructed fitted and maintained as to form when closed a watertight separation between the building and the said passage or subway.

(4) Unless the Council otherwise consent an opening shall not be made in any division wall separating divisions of a building of the warehouse class or used for purposes of trade or manufacture or in any party wall or in two external walls separating such buildings in any case in which such divisions or buildings (as the case may be) if taken together would extend to more than two hundred and fifty thousand cubic feet except under the following conditions :—

- (a) the opening shall have the floor jams and head formed of brick stone iron or other incombustible materials and be closed by two wrought iron or mild steel doors sliding doors or shutters each not less than one-fourth of an inch thick in the panel at a distance from each other of the full thickness of the wall fitted to grooved or rebated iron frames without woodwork of any kind and all such doors sliding doors and shutters shall be fitted with sufficient and proper bolts or other fastenings and be capable of being opened from either side and shall have on each face thereof styles and rails at least

four inches wide and one-fourth of an inch thick and shall be constructed fitted and maintained in an efficient condition ;

(b) the opening shall not exceed in width seven feet or in height eight feet and the width of any such opening in any wall of a storey (or if there is more than one such opening in any such wall the widths of all such openings taken together) shall not exceed one-half of the length of the wall :

Provided that any such opening may be nine feet six inches in height in a wall of which the thickness is not less than twenty-four inches or where the doors sliding doors or shutters closing the opening are placed at a distance of not less than twenty-four inches from each other.

(5) Whenever it is proposed in respect of any buildings which were united when they were in one occupation that they shall be in more than one occupation the owner thereof or if the buildings are the property of different owners then each of the owners shall thereupon give notice of the intended change of occupation to the district surveyor and unless the Council consent to the retention of the openings by which the buildings are united shall before the buildings are occupied by more than one occupier cause all such openings to be stopped up with brick or stone work not less in thickness than thirteen inches or (when the wall is of a less thickness than thirteen inches) than the thickness of the wall and properly bonded or otherwise united with the wall and shall cause to be removed any timber placed in the wall in connection with such openings and not in conformity with the London Building Acts or any byelaws made in pursuance of those Acts.

(6) Notwithstanding the existence in any party wall or two external walls or in any division wall of an opening uniting buildings or affording communication between divisions of a building (as the case may be) the provisions of this section shall extend and apply to

(a) all openings at any time after the thirty-first day of July nineteen hundred and eight made or proposed to be made in any such wall or walls ; and

(b) to such buildings as if they had not been previously united. [1053]

22. Division walls to be subject to provisions relating to party walls.

—The provisions of the London Building Acts and of any byelaws made in pursuance of those Acts with respect to party walls shall apply to such division walls as are referred to in this Part of this Act. [1054]

23. Separation of buildings.—A building separated from any adjoining building by a proper party structure shall be deemed to be properly separated from such building. [1055]

24. Ventilation of staircases.—(1) In every building constructed or adapted to be occupied in separate tenements by more than two families the principal staircase used by the several families in common shall be ventilated upon every storey above the ground storey by means of windows or skylights opening directly into the external air or shall be otherwise adequately ventilated.

(2) The principal staircase in every building being a dwelling-house and not subject to the provisions of subsection (1) of this section shall be ventilated by means of a window or skylight opening directly into the external air.

(3) So much of subsection (4) of section 12 (Repeals) of the Act of 1935 as relates to section 74 (Ventilation of staircases) of the Act of 1930 applies to this section as it applies to the said section 74. [1056]

25. Accesses and stairs in public buildings.—In every public building the floors of the lobbies corridors passages and landings and the flights of stairs shall be constructed of and carried by supports possessing such a degree of resistance to the action of fire as the Council may determine. [1057]

26. Construction of public buildings.—(1) Subject to the provisions of this section and notwithstanding anything in the London Building Acts or any byelaws made in pursuance of those Acts every public building including the walls roofs floors galleries and staircases and every structure and work constructed or done in connection with or for the purposes of the same shall be constructed in such manner as may be approved by the district surveyor or determined by the tribunal of appeal.

(2) (a) The Council may from time to time prescribe standards of stability and fire protection in relation to the construction of public buildings or any class of public buildings or parts of public buildings and of any structure or work in connection with public buildings and such standards may differ as respects different classes of public buildings or parts of public buildings or structures or works as aforesaid.

(b) The Council may on the application of the district surveyor relax in relation to any particular public building or part of a public building any of the standards prescribed by them in pursuance of this section.

(c) A district surveyor in exercising the powers of subsection (1) of this section shall require any standards so prescribed to be observed except in so far as such standards may be relaxed by the Council but nothing in this subsection shall—

- (i) prevent the district surveyor from requiring in such public buildings or parts of buildings or any structure or work in connection with or for the purposes of the same as he thinks fit a standard higher than that prescribed by the Council ; or
- (ii) prejudice the powers of the district surveyor under this section as respects so much of the construction of such public buildings parts of buildings structures or works as is not subject to the standards prescribed by the Council in pursuance of this section ; or
- (iii) prejudice the powers of the tribunal of appeal under this section.

(3) Except as respects the rules of construction of the building every public building shall throughout the London Building Act be deemed to be included in the expression " building " and be subject to all the provisions of those Acts in the same manner as if it were a building other than a public building.

(4) No building shall be used as a public building until the district surveyor has certified or the tribunal of appeal has determined that it accords with subsection (1) of this section and after the district surveyor has so certified or the tribunal of appeal has so determined any work affecting or likely to affect the building shall not be done to in or upon the building without the approval of the district surveyor or the tribunal of appeal as the case may be. [1058]

As to what is a " public building," see s. 4, *ante*.

27. Conversion of buildings into public buildings.—(1) Where it is proposed to convert any building into a public building the provisions of the London Building Acts and any byelaws made in pursuance of those Acts shall apply to the conversion and to any work affecting or likely to affect the building after such conversion as though it were the construction of a public building.

(2) For the purpose of this section a building shall be deemed to be converted into a public building if the purposes for which the building or a part thereof is used are changed to the purposes of a public building whether structural alterations are involved or not. [1059]

28. Buildings under railway arches.—(1) Where a building—

(a) erected after the thirty-first day of December eighteen hundred and ninety-four under or in or by enclosure of a railway arch or abutting thereon is constructed or adapted to be used for the purpose of human habitation ;

(b) erected after the commencement of this Act under or in or by enclosure of a railway arch or abutting thereon is constructed or adapted to be used for purposes other than those of human habitation and is not wholly or in part occupied and used by the railway company to which the arch belongs for the railway purposes of their undertaking ;

the London Building Acts and any byelaws made in pursuance of those Acts shall apply to the building and to every work done to in or on the same in like manner and to the like extent as far as may be as if the building were built in any other position.

(2) For the purpose of this section a building erected by the enclosure of each railway arch shall be treated as a separate building.

(3) Nothing in this section shall authorise any interference with the structure of a railway arch. [1060]

PART IV

SPECIAL AND TEMPORARY BUILDINGS AND STRUCTURES

29. Application of Part IV.—The provisions of this Part of this Act shall apply to—

(a) any building or structure not constructed or not intended to be constructed generally or substantially in conformity with the provisions of Part III (Construction of buildings) of this Act and of any byelaws made in pursuance of the London Building Acts ;

(b) any structure the construction of which is not regulated by the provisions of the said Part III and byelaws. [1061]

This Part of the Act replaces Part VII of the Act of 1930 (23 Statutes 265 *et seq.*).

30. Consent to special and temporary buildings &c.—(1) Notwithstanding the provisions of section 3 (Construction, &c. of buildings and structures) of the Act of 1935 and subject to the provisions of this Part of this Act the Council may consent to the setting up erection or retention of a building or structure to which this Part of this Act applies and it shall not be lawful to set up erect or retain such a building or structure without consent under this Part of this Act.

(2) As respects any of the following buildings and structures to which this Part of this Act applies which is of a temporary character

the provisions of subsection (1) of this section shall have effect as if the metropolitan borough council were named therein instead of the Council—

- (a) any building or structure not exceeding two hundred square feet in area or seven feet six inches in height measured from the level of the ground on which the building or structure is or is to be erected to the underside of the eaves or roof plate but the Council and not the metropolitan borough council shall be the authority to grant consents as respects any such building or structure if—

(i) the setting up erection or retention of the building or structure would infringe any of the provisions of Part II (Formation and widening of streets) Part III (Lines of building frontage) or Part V (Open spaces about buildings and height of buildings) of the Act of 1930 ;

(ii) the setting up erection or retention of the building or structure is not in conformity with the provisions of any scheme or order for the time being in force under the Town and Country Planning Act 1932 or under any Act repealed by that Act and applicable to the metropolitan borough within which the building or structure is or the proposed building or structure will be ;

- (b) any temporary stand or similar structure of which the floor of the topmost tier does not exceed seven feet measured from the level of the footway in front of the centre of the face of the stand or similar structure or if there is no footway from the level of the ground immediately beneath such stand or similar structure and of which the load is not carried by the floor or any other part of another structure or a building ;

- (c) any other structure (not being a building) wholly or mainly of wooden construction.

(3) No such building or structure as is referred to in paragraph (a) of subsection (2) of this section and in respect of which the metropolitan borough council are the authority to grant consents under this section shall—

- (i) be used for the storage or manipulation of inflammable materials or for the purposes of human habitation ; or

- (ii) be united to a building or structure to which the provisions of Part III (Construction of buildings) of this Act and any bye-laws made in pursuance of the London Building Acts relating to the construction of buildings or structures apply ;

and the metropolitan borough council shall attach to their consent under the said paragraph conditions to that effect.

(4) Where in pursuance of paragraph (a) of subsection (2) of this section the metropolitan borough council are the authority to grant consents to the setting up erection or retention of a building or structure any consent as respects any building or structure which is to be used for the purposes of trade and any consent for a period exceeding three years shall unless the Council otherwise agree only be given after consultation with the Council.

- (5) As respects—

- (i) any hoarding or similar structure (being affixed to a building)

any part of which is at a height greater than seven feet measured from the level of the ground ; or

- (ii) any hoarding or similar structure (not being affixed to a building or structure) in such a position as to prevent easy access for the purpose of proper inspection of the exterior of any building to which the hoarding or similar structure is adjacent :

the metropolitan borough council shall attach to their consent under this section a condition providing for the submission to them at such successive periods as may be fixed by them of a certificate by the district surveyor as to the stability of the part of the building to which the hoarding or similar structure is affixed or to which it is adjacent.

(6) Where in pursuance of this section the metropolitan borough council are the authority to grant consents to the setting up erection or retention of a building or structure such building or structure shall be subject to the supervision of the metropolitan borough council and the provisions of section 83 (Service of building notices) of this Act shall not apply as respects such building or structure.

(7) The provisions of subsections (1) and (2) of this section shall not apply to—

- (a) any hoarding duly licensed by the local authority under any other Act ;
- (b) any hoarding enclosing vacant land and not exceeding in any part twelve feet in height measured from the ground immediately beneath the face of the hoarding ;
- (c) any structure of a moveable or temporary character erected by a builder for use for the purpose of the erection alteration or repair of any building unless the structure is not taken down or removed immediately after such erection alteration or repair ;
- (d) any pile stack or store of timber not being a structure affixed or fastened to the ground.

(8) The provisions of this section shall not prejudice or effect the operation of section 85 (As to wooden structures) of the City of London (Various Powers) Act 1911 relative to wooden structures in the city or section 27 (Cloakrooms &c.) and section 104 (Shelters &c.) of the London Passenger Transport Act 1934 or section 89 (Shelters &c.) of the London Passenger Transport Act 1935 or section 65 (Refreshment shelters &c.) of the London Passenger Transport Act 1938. [1062]

31. Power of court to make orders.—Where it is proved to the satisfaction of the court before which proceedings are taken by the Council or a metropolitan borough council under this Act that a person has—

- (a) set up erected or retained any building or structure to which this Part of this Act applies without having obtained the consent required thereby ; or
- (b) contravened or failed to comply with any condition attached to such consent ;

the court may notwithstanding the imposition of any fine and without prejudice to any other powers conferred on the court by this or any other Act make an order in writing directing that person to demolish or remove the building or structure or any part thereof or to comply with the condition within a time to be fixed by the order. [1063]

32. Open sheds.—Notwithstanding anything in the London Building Acts or in any byelaws made in pursuance of those Acts open sheds not exceeding sixteen feet in height and not exceeding six squares in area may be constructed of any such materials and in such manner as may be approved by the district surveyor. [1064]

PART V

MEANS OF ESCAPE IN CASE OF FIRE

33. Interpretation of Part V.—(1) In this Part of this Act unless the context otherwise requires the following expressions have the meanings hereby respectively assigned to them :—

“ height ” in relation to a storey of a building means the level of the surface of the highest point of the floor of that storey measured at the centre of that face of the building where the measurement is greatest from the level of the footway immediately in front of that face or if there is no such footway from the level of the ground before excavation ;

“ new building ” means any building—

(a) of which the actual erection above the footings or supporting concrete has not been bona fide and substantially begun at the commencement of this Act ; or

(b) which having been destroyed by fire or other casualty or demolished pulled down or removed from any other cause to an extent exceeding one-half of the aggregate of the superficial areas of the enclosures (excluding party walls) and of the roof and of the floors of the building and is on or after that date reconstructed or commenced to be reconstructed wholly or partly on the same site ; or

(c) of which the cubical extent has been increased on or after that date by new building work of an extent equal to or exceeding the cubical extent of the building as existing before that date ; or

(d) which having been an old building has by reason of any alteration thereof or addition thereto on or after that date a storey at a height greater than forty-two feet ;

“ old building ” means any building which is not a new building ;

“ owner ” in relation to any premises means the person for the time being receiving the rackrent of the premises whether on his own account or as agent or trustee for any other person or who would so receive it if the premises were let at a rackrent ;

“ plans ” means plans sections and elevations ;

“ rackrent ” means rent which is not less than two-thirds of the full annual value of the premises and the full annual value shall be taken to be the annual rent which a tenant might reasonably be expected taking one year with another to pay for the premises if the tenant undertook to pay all usual tenant's rates and taxes and if the landlord undertook to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the premises in a state to command that rent. [1065]

(2) For the purposes of the definition of the expression “ new building ” in this section the measurement of the superficial area of the

roof of a building shall be taken in the manner set out in subsection (2) of section 136 (Buildings partially destroyed &c. or spaces roofed over to be buildings or structures) of this Act. [1066]

Part VIII of the Act of 1930 (23 Statutes 268 *et seq.*) is repealed by this Act and the present section replaced s. 95 of the Act of 1930 (*loc. cit.*).

34. Protection against fire in certain new buildings.—(1) Every new public building every new building which is constructed to be used or is used in whole or in part as a church chapel or other place of worship hall meeting room school classroom concert room dancing room or other place of assembly and every other new building—

- (a) which if of one storey exceeds six squares in area ; or
- (b) which is of more than one storey has in the aggregate a total floor area exceeding ten squares (exclusive of any basement storey used solely for storage purposes) ; or
- (c) which has a storey at a greater height than twenty feet ; or
- (d) in which more than ten persons are employed above the ground storey ;

shall be provided in accordance with plans approved by the Council with all such means of escape therefrom in case of fire as in the circumstances of the case can be reasonably required :

Provided that—

- (i) as respects a building of the class referred to in paragraph (c) of this subsection which is not a building also of any of the other classes referred to in this subsection nothing in this subsection shall authorise the Council to require any means of escape from any storey which is not at a greater height than twenty feet ;

- (ii) the provisions of this subsection shall not apply to—

(A) a building or part of a building in respect of which as a place of entertainment a licence is required from the Lord Chamberlain or the Council for that purpose ; or

(B) a building being a dwelling-house exclusively used for human habitation which is not constructed—

(1) to be let in self-contained flats or tenements or in habitable rooms in different occupations ; or

(2) as an hotel or boarding house ;

and which does not contain a storey at a greater height than twenty feet. [1067]

(2) The owner of any building to which subsection (1) of this section applies shall before or at the same time as a building notice under section 83 (Service of building notices) of this Act in respect of the building is served on the district surveyor deposit at the County Hall a notice stating the matters and particulars which are required by that section to be stated in a building notice thereunder together with two copies (which may be sun-prints or photographic reproductions on paper) of the plans prepared for the new building showing so far as may be necessary for the purposes of this section the means of escape proposed to be provided in connection with the building. [1068]

(3) The Council at any time within a period of one month after the deposit of the plans—

- (i) may refuse to approve the means of escape shown thereon in pursuance of this section ; or

- (ii) may approve such means of escape subject to such conditions (if any) as they think fit ;

in either of which cases they shall within the said period give notice to the applicant stating their reasons for the refusal or for the imposition of the conditions as the case may be and if within that period the Council fail to give such a notice they shall be deemed to have approved the said means of escape unconditionally :

Provided that if in any case the said period would begin or expire on any day between the first day of August and the fourteenth day of September (both inclusive) the foregoing provisions of this subsection shall have effect as if there were therein substituted for the words " one month " the words " two months." [1069]

(4) No building or part of any building in respect of which building or part subsection (1) of this section requires means of escape to be provided should be occupied or let for occupation until the Council have issued a certificate or the tribunal of appeal have determined that such building has been provided with means of escape in accordance with plans approved as aforesaid by the Council or the tribunal of appeal and that the conditions (if any) subject to which such plans were so approved have been complied with :

Provided that—

- (a) unless the Council within fourteen days after notice of completion of the building has been given to them by the owner notify to the owner that such a certificate as is mentioned in this subsection has been refused and the grounds of the refusal the certificate shall be deemed to have been duly issued ; and

- (b) nothing in this subsection shall prevent—

(i) the continuous occupation during rebuilding of any portion of any building to which this subsection applies and which has been partially taken down burnt or destroyed ; or

(ii) with the consent of the Council or the tribunal of appeal the occupation or the letting for occupation of any portion of any building to which this subsection applies pending the issue of a certificate as respects the whole of the building if the Council or the tribunal of appeal as the case may be are satisfied that reasonable means of escape have been provided from such portion of the building. [1070]

(5) Where any person has been convicted of an offence against this Act by reason of a contravention of the provisions of this section a court of summary jurisdiction may notwithstanding the imposition of any fine and without prejudice to any other powers conferred on the court by this or any other Act make an order prohibiting the occupation of the building or any part thereof in respect of which building or part subsection (1) of this section requires means of escape to be provided and any such order may be at any time amended or discharged by a further order of a court of summary jurisdiction. [1071]

(6) The Council or the tribunal of appeal may in any case where it is reasonable so to do grant subject to such conditions (if any) as they think fit exemption as respects any building from all or any of the provisions of this section. [1072]

35. Protection against fire in certain old buildings.—(1) Where an old building—

- (a) except a dwelling-house occupied as such by not more than one family—
 - (i) contains any storey which is at a greater height than forty-two feet ; or
 - (ii) is a building in which sleeping accommodation is provided for more than twenty persons or which is occupied by more than twenty persons or in which more than twenty person are employed ; or
- (b) is a building in which more than ten persons are normally employed at any one time above the first storey or on or above any storey which is at a greater height than twenty feet ; or
- (c) exceeds two storeys in height and contains any storey which is at a greater height than twenty feet and—
 - (i) is let in flats or tenements ; or
 - (ii) is used as an inn hotel boarding house hospital nursing home boarding school children's home or other institution ; or
 - (iii) is used as a restaurant shop store or warehouse and has on any storey above the ground storey any sleeping accommodation ; or
- (d) contains a place of assembly having a superficial area of not less than five hundred square feet ;

the Council if in their opinion the building is not provided with proper and sufficient means of escape therefrom in case of fire may at any time serve upon the owner of the building a notice requiring him to provide such means of escape as in the circumstances of the case can be reasonably required :

Provided that—

- (i) as respects a building of the class referred to in subparagraph (i) of paragraph (a) or in paragraph (c) of this subsection which is not also a building of any of the other classes referred to in this subsection nothing in this subsection shall authorise the Council to require any means of escape from any storey which is not at a greater height than twenty feet ;
- (ii) the provisions of this subsection shall not apply to a building or part of a building in respect of which as a place of entertainment a licence is required from the Lord Chamberlain or the Council for that purpose ;
- (iii) the provisions of this subsection shall not apply to any building or part of a building which has been provided with means of escape in accordance with the provisions of section 7 (Protection against fire in certain new buildings) or section 9 (Protection against fire in certain existing buildings) of the London Building Acts (Amendment) Act 1905 or section 96 (Protection against fire in certain new buildings) or section 97 (Protection against fire in certain old buildings) of the Act of 1930 so long as such means of escape are properly maintained. [1073]

(2) The notice under subsection (1) of this section shall specify in detail the requirements of the Council and the owner of the building

shall subject to the provisions of this Act execute and do within such period as may be required by the Council or the tribunal of appeal all such works and things as may be necessary in order to comply with those requirements as made by the Council or as confirmed or varied by the tribunal of appeal :

Provided that if the owner within twenty-one days after the service of the notice has submitted to the Council alternative proposals for the provision of means of escape and the Council have in writing accepted the proposals as satisfactory it shall not be necessary for the owner to comply with the requirements contained in the notice served upon him by the Council but he shall with all practicable dispatch after the acceptance of the proposals execute and do all such works and things as may be necessary in order to provide the means of escape specified in the proposals. [1074]

(3) Where any person has been convicted of an offence against this Act by reason of failure—

- (a) to comply within the period required by the Council or the tribunal of appeal with any requirement made by the Council under this section or confirmed or varied by the tribunal of appeal ; or
- (b) to execute and do with all practicable dispatch after the acceptance of alternative proposals as aforesaid all such works and things as may be necessary to provide the means of escape specified in the proposals ;

a court of summary jurisdiction may notwithstanding the imposition of any fine and without prejudice to any other powers conferred on the court by this or any other Act make an order prohibiting the occupation of the building or any storey or part thereof from which means of escape ought to have been provided in pursuance of this section and any such order may be at any time amended or discharged by a further order of a court of summary jurisdiction. [1075]

(4) The Council shall keep at the County Hall a register (which shall at all reasonable times be open to inspection without payment) of all orders made under this section. [1076]

(5) For the purpose of the calculation of the numbers referred to in paragraph (a) of subsection (1) of this section a lodger shall be deemed to be an occupier and "occupied" shall be construed accordingly.

[1077]

This section replaces s. 97 of the Act of 1930 (23 Statutes 270).

36. Projecting shops.—(1) Where any portion of a building which is used or adapted to be used as a shop projects for a distance of seven feet or more beyond the main front of any building of which it forms part and in which persons are employed or sleep the projecting portion of the shop shall be provided by the owner with a roof possessing such a degree of resistance to the action of fire as the Council may determine :

Provided that where the building abuts upon more than one street and any portion of the building which is used or adapted to be used as a shop projects for a distance of seven feet or more beyond any return front of the building the provisions of this section shall apply (in like manner as they apply to the portion so projecting beyond the main front of the building) to so much of the roof of the portion of the shop so projecting as lies between imaginary parallel lines drawn thereon throughout the whole depth of the projection of the building from points three feet in a horizontal direction on each side of any doorway

or window in the wall adjacent to the projecting portion of the building being a doorway or window the use of which is reasonably necessary as a means of escape from the building in case of fire. [1078]

(2) Lantern lights skylights or ventilating cowls may be constructed or placed in or upon the roof of the portion of the shop so projecting :
Provided that—

- (a) no lantern light skylight or ventilating cowl shall be constructed or placed so that any part thereof will be nearer than six feet to the front of the building from which the shop projects or nearer than four feet to any external wall or party wall at the side of the flat roof ; and
- (b) the lantern light skylight or ventilating cowl (including any glazing) shall possess such a degree of resistance to the action of fire as the Council may determine ; and
- (c) no part of the lantern light skylight or ventilating cowl shall project for more than five feet above the roof in or upon which it is constructed or placed. [1079]

(3) The Council or the tribunal of appeal may in any case where it is reasonable so to do grant subject to such conditions (if any) as they think fit exemption as respects any building from all or any of the provisions of this section. [1080]

This section replaces s. 98 of the Act of 1930 (23 Statutes 272).

37. Means of access to roofs.—(1) Each of the following buildings (that is to say) :—

- (a) every old building to which section 36 (Projecting shops) of this Act applies ;
- (b) every other old building (not being a building to which section 35 (Protection against fire in certain old buildings) of this Act applies) except a dwelling-house used exclusively for dwelling purposes by not more than ten persons ;

shall if it has a storey at a greater height than twenty feet unless the Council otherwise consent be provided by the owner either—

- (i) with a window dormer window or door opening in each case in a suitable position approved by the district surveyor on to the roof with proper access thereto ; or
- (ii) with a trap-door covered with incombustible material or with a skylight glazed with fire-resisting glass such trap-door or skylight being in or on the roof and providing means of access to the roof and in a suitable position approved by the district surveyor and being hung on hinges so as to admit of opening to the fullest extent and furnished with a counter-weight so as to ensure that it will open automatically when unfastened and also with a fixed or hinged step ladder leading to the roof ; or
- (iii) with other means of access to the roof approved by the district surveyor ;

and where reasonably practicable and necessary also with a parapet or guard-rail sufficient to prevent persons from slipping off the roof. [1081]

(2) A door or other means of closing any opening provided in pursuance of this section shall not be locked or fastened in such manner

that it cannot be easily and immediately opened from the inside of the building. [1082]

This section replaces s. 100 of the Act of 1930 (23 Statutes 273).

38. Parts of buildings used for storage of inflammable liquid.—

(1) Where any part of a building is used for the storage for purposes of sale or trade of any substance to which this section applies in such quantity as to be likely to prove a source of danger to any person inhabiting or using any part of the building for the purposes hereinafter mentioned or in such manner as to be liable to cause fire or explosion no person shall knowingly or wilfully use or permit to be used as a habitable room or as a place in which any person works any part of the building which communicates directly or indirectly with or is adjacent to or constructed at a level higher than the part of the building used for such storage or any part of the building used for such storage unless there are provided according to the requirements of the Council—

- (i) adequate safeguards to prevent the spread of fire to or from the part of the building used for such storage; and
- (ii) means of ready escape in case of fire from the part of the building used for such purposes as aforesaid and the part of the building used for such storage. [1083]

(2) The substances to which this section applies are petroleum within the meaning of the Petroleum (Consolidation) Act, 1928 bisulphide or carbon ether turpentine methylated spirit any liquid which when tested by the method set forth in Part II of the Second Schedule to the Petroleum (Consolidation) Act, 1928 or any sedimentary or viscous mixture which when tested by the method set forth in Part II of the schedule to the Petroleum (Mixtures) Order, 1929 gives off an inflammable vapour at a temperature of less than one hundred and fifty degrees Fahrenheit. [1084]

(3) Nothing in this section shall affect the jurisdiction of the common council under the Petroleum (Consolidation) Act, 1928. [1085]

This section replaces and extends s. 99 of the Act of 1930 (23 Statutes 272).

39. Consent to alterations &c. in buildings.—As respects any building to which the provisions of this Part of this Act apply or in respect of which means of escape have been provided in pursuance of the provisions of the London Building Acts (Amendment) Act, 1905 or of Part VIII (Means of escape in case of fire) of the Act of 1930—

- (a) no substantial alteration or addition of a structural character of or to the building;
- (b) no substantial increase in the number of persons occupied or employed or dwelling in the building; and
- (c) no change of circumstances in or affecting the building or of the use to which the building is put;

which will substantially increase the risk of fire in the building or the difficulty of escaping therefrom in case of fire shall be made or effected without the consent of the Council. [1086]

This section is based on s. 101 of the Act of 1930 (23 Statutes 273).

40. Exemption of owner from liability on conviction of actual offender.—(1) (a) Where the owner of a building is charged with an offence under this Act by reason of a contravention of the provisions of this Part of this Act he shall be entitled upon information duly laid by him and on giving to the prosecution not less than three days' notice

in writing of his intention to have the occupier or any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge and if after the commission of the offence has been proved the owner of the building proves to the satisfaction of the court—

- (i) that he has used all due diligence to enforce the execution of the provisions of this Part of this Act to which the charge relates and of any relevant notice or order given or made thereunder ; and
- (ii) that the said occupier or other person had committed the offence in question without the consent connivance or wilful default of the owner of the building ;

that occupier or other person may be convicted of the offence and the owner shall not be guilty of the offence and the person so convicted shall in the discretion of the court be also liable to pay any costs incidental to the proceedings.

(b) The prosecution shall have the right in any such case to cross-examine the owner if he gives evidence and any witnesses called by him in support of his charge and to call rebutting evidence. [1087]

(2) Where it is made to appear to the satisfaction of the Council at the time of discovering an offence—

- (i) that the owner of the building has used all due diligence to comply with the provisions of this Part of this Act or any requirements made thereunder ; and
- (ii) by what person other than the owner the offence has been committed ; and
- (iii) that it has been committed without the consent connivance or wilful default of the owner and in contravention of his orders ;

the Council shall proceed against the person whom they believe to be the actual offender without first proceeding against the owner of the building. [1088]

This section replaces s. 106 of the Act of 1930 (23 Statutes 275).

41. Arbitration as to incidence of damage.—Where the occupier of a building claims to have sustained any damage directly and solely caused by the construction of any works carried out under this Part of this Act the claim shall unless otherwise agreed be referred to arbitration and if damage be established the arbitrator shall determine how the damage shall be borne by the persons interested in the building having regard to all the circumstances of the case including the terms of any lease or contract affecting the building. [1089]

This section replaces s. 108 of the Act of 1930 (23 Statutes 276).

42. Appeals under Part V.—At any time within two months after—

- (a) the refusal or conditional grant by the Council of their approval of any plans deposited in pursuance of section 34 (Protection against fire in certain new buildings) of this Act or the refusal by the Council to issue a certificate under that section ;
- (b) the refusal by the Council under that section to consent to the occupation or the letting for occupation of a portion of a building ; or

- (c) the refusal or conditional grant by the Council of any exemption which they are by that section empowered to grant; or
- (d) the service on the owner of a building of notice of any requirement of the Council under section 35 (Protection against fire in certain old buildings) of this Act; or
- (e) the refusal or conditional grant by the Council of any exemption which they are empowered to grant under section 36 (Projecting shops) of this Act or of any consent which they are empowered to grant under section 37 (Means of access to roofs) of this Act; or
- (f) the making of any requirement by the Council with respect to a building under section 38 (Parts of buildings used for storage of inflammable liquid) of this Act; or
- (g) the refusal of the consent of the Council under section 39 (Consent to alterations, &c., in buildings) of this Act;

the owner of the building to which the refusal conditional grant or requirement relates may appeal to the tribunal of appeal. [1090]

This section replaces s. 109 of the Act of 1930 (23 Statutes 276).

43. Exemption of certain buildings while used as factories.—Nothing in this Part of this Act shall empower the Council to require as regards any building while used in part as a factory within the meaning of the Factories Act, 1937 means of escape in case of fire to be provided from or in respect of the part of such building so used if a certificate under section 34 of that Act in respect of that part is in force or the factory or part thereof is entitled under that section to receive a certificate for the purposes of that section. [1091]

This section replaces s. 111 of the Act of 1930 (23 Statutes 276).

PART VI

RIGHTS ETC. OF BUILDING AND ADJOINING OWNERS

44. Interpretation of Part VI.—In this Part of this Act unless the context otherwise requires the following expressions have the meanings hereby respectively assigned to them :—

“ foundation ” in relation to a wall means the solid ground or artificially formed support resting on solid ground on which the wall rests ;

“ party wall ” means—

(i) a wall which forms part of a building and stands on lands of different owners to a greater extent than the projection of any artificially formed support on which the wall rests ; and

(ii) so much of a wall not being a wall referred to in the foregoing paragraph (i) as separates buildings belonging to different owners ;

“ special foundations ” means foundations in which an assemblage of steel beams or rods is employed for the purpose of distributing any load. [1092]

Part IX of the Act of 1930 (Rights of Building and Adjoining Owners) (23 Statutes 277 *et seq.*) is repealed by this Act and replaced by the present Part.

Rights &c. of owners

45. Rights of owners of adjoining lands where junction line not built on.—(1) Where lands of different owners adjoin and are not built on at the line of junction or are built on at the line of junction only to the extent of a boundary wall (not being a party fence wall or the external wall of a building) and either owner is about to build on any part of the line of junction the following provisions shall have effect :—

(a) If the building owner desires to build on the line of junction a party wall or party fence wall—

(i) the building owner shall serve notice of his desire on the adjoining owner describing the intended wall ;

(ii) if the adjoining owner consents in writing to the building of a party wall or party fence wall the wall shall be built half on the land of each of the two owners or in such other position as may be agreed between the two owners and the expense of building the wall shall be from time to time defrayed by the two owners in due proportion regard being had to the use made or to be made of the wall by the two owners respectively and to the cost of labour and materials prevailing at the time when that use is made by each owner respectively ;

(iii) if the adjoining owner does not consent in writing to the building of a party wall or party fence wall the building owner shall not build the wall otherwise than at his own expense and as an external wall or a fence wall as the case may be placed wholly on his own land ;

(b) If the building owner desires to build on the line of junction a wall placed wholly on his own land he shall serve notice of his desire on the adjoining owner describing the intended wall ;

(c) Where in either of the cases described in paragraphs (a) and (b) of this subsection the building owner builds a wall on his own land he shall have a right at his own expense at any time after the expiration of one month but not exceeding six months from the service of the notice to place on land of the adjoining owner below the level of such land any projecting footings and foundation making compensation to the adjoining owner or the adjoining occupier or both of them for any damage occasioned thereby the amount of the compensation in the event of difference to be determined in the manner provided in this Part of this Act. [1093]

(2) Nothing in this section shall authorise the building owner to place special foundations on land of the adjoining owner without his previous consent in writing. [1094]

This section and that following replace s. 113 of the Act of 1930 (23 Statutes 277).

46. Rights of owners of adjoining lands where junction line built on.—(1) Where lands of different owners adjoin and at the line of junction the said lands are built on or a boundary wall being a party fence wall or the external wall of a building has been erected the building owner shall have the following rights :—

(a) A right to make good underpin thicken or repair or demolish and rebuild a party structure or party fence wall in any case

where such work is necessary on account of defect or want of repair of the party structure or party fence wall ;

- (b) A right to demolish a timber or other partition which separates buildings belonging to different owners but is not in conformity with the London Building Acts or any byelaws made in pursuance of those Acts and to build instead a party wall in conformity therewith ;
- (c) A right in relation to a building having rooms or storeys belonging to different owners intermixed to demolish such of those rooms or storeys or any part thereof as are not in conformity with the London Building Acts or any byelaws made in pursuance of those Acts and to rebuild them in conformity therewith ;
- (d) A right (where buildings are connected by arches or structures over public ways or over passages belonging to other persons) to demolish such of those building arches or structures or such parts thereof as are not in conformity with the London Building Acts or any byelaws made in pursuance of those Acts and to rebuild them in conformity therewith ;
- (e) A right to underpin thicken or raise any party structure or party fence wall permitted by this Act to be underpinned thickened or raised or any external wall built against such a party structure or party fence wall subject to—
 - (i) making good all damage occasioned thereby to the adjoining premises or to the internal finishings and decorations thereof ; and
 - (ii) carrying up to such height and in such materials as may be agreed between the building owner and the adjoining owner or in the event of difference determined in the manner provided in this Part of this Act all flues and chimney stacks belonging to the adjoining owner on or against the party structure or external wall ;
- (f) A right to demolish a party structure which is of insufficient strength or height for the purposes of any intended building of the building owner and to rebuild it of sufficient strength or height for the said purposes subject to—
 - (i) making good all damage occasioned thereby to the adjoining premises or to the internal finishings and decorations thereof ; and
 - (ii) carrying up to such height and in such materials as may be agreed between the building owner and the adjoining owner or in the event of difference determined in the manner provided in this Part of this Act all flues and chimney stacks belonging to the adjoining owner on or against the party structure or external wall ;
- (g) A right to cut into a party structure subject to making good all damage occasioned thereby to the adjoining premises or to the internal finishings and decorations thereof ;
- (h) A right to cut away any footing or any projecting chimney breast jamb or flue or other projection on or over the land of the building owner from a party wall party fence wall external wall or boundary wall in order to erect raise or underpin an external wall against such party wall party fence wall external wall or boundary wall or for any other purpose subject to making good all damage occasioned thereby to the

adjoining premises or to the internal finishings and decorations thereof ;

- (i) A right to cut away or demolish such parts of any wall or building of an adjoining owner overhanging the land of the building owner as may be necessary to enable a vertical wall to be erected against that wall or building subject to making good any damage occasioned thereby to the wall or building or to the internal finishings and decorations of the adjoining premises ;
- (j) A right to execute any other necessary works incidental to the connection of a party structure with the premises adjoining it ;
- (k) A right to raise a party fence wall to raise and use as a party wall a party fence wall or to demolish a party fence wall and rebuild it as a party fence wall or as a party wall. [1095]

(2) For the purposes of this section a building or structure which was erected before the commencement of this Act shall be deemed to be in conformity with the London Building Acts and any byelaws made in pursuance of those Acts if it is in conformity with the Acts and any byelaws made in pursuance of the Acts which regulated buildings or structures in London at the date at which it was erected. [1096]

(3) Nothing in this section shall authorise the building owner to place special foundations on land of the adjoining owner without his previous consent in writing. [1097]

See note to previous section.

47. Party structure notices.—(1) Before exercising any right conferred on him by section 46 (Rights of owners of adjoining lands where junction line built on) of this Act a building owner shall serve on the adjoining owner notice in writing (in this Act referred to as a "party structure notice") stating the nature and particulars of the proposed work the time at which it will be begun and those particulars shall where the building owner proposes to construct special foundations include plans sections and details of construction of the special foundations with reasonable particulars of the loads to be carried. thereby. [1098]

(2) A party structure notice shall be served—

- (a) in respect of a party fence wall or special foundations at least one month ; and
- (b) in respect of a party structure at least two months ;

before the date stated therein as that on which the work is to be begun. [1099]

(3) A party structure notice shall not be effective unless the work to which the notice relates is begun within six months after the notice has been served and is prosecuted with due diligence. [1100]

(4) Nothing in this section shall prevent a building owner from exercising with the consent in writing of the adjoining owner and of the adjoining occupiers any right conferred on him by section 46 (Rights of owners of adjoining lands where junction line built on) of this Act and nothing in this section shall require him to serve any party structure notice before complying with any notice served under the provisions of Part VII (Dangerous and neglected structures) of this Act. [1101]

This section and the two following correspond to s. 116 of the Act of 1930 (23 Statutes 280).

48. Counter notices.—(1) After the service of a party structure notice the adjoining owner may serve on the building owner a notice in writing (in this Part of this Act referred to as “a counter notice”).

[1102]

(2) A counter notice—

- (a) may in respect of a party fence wall or party structure require the building owner to build in or on the party fence wall or party structure as the case may be to which the notice relates such chimney copings breasts jambs or flues or such piers or recesses or other like works as may reasonably be required for the convenience of the adjoining owner ;
- (b) may in respect of special foundations to which the adjoining owner consents under subsection (3) of section 46 (Rights of owners of adjoining lands where junction line built on) of this Act require them to be placed at a specified greater depth than that proposed by the building owner or to be constructed of sufficient strength to bear the load to be carried by columns of any intended building of the adjoining owner or may include both of these requirements ; and
- (c) shall specify the works required by the notice to be executed and shall be accompanied by plans sections and particulars thereof. [1103]

(3) A counter notice shall be served—

- (a) in relation to special foundations within twenty-one days after the service of the party structure notice ; and
- (b) in relation to any other matter within one month after the service of the party structure notice. [1104]

(4) A building owner on whom a counter notice has been served shall comply with the requirements of the counter notice unless the execution of the works required by the counter notice would be injurious to him or cause unnecessary inconvenience to him or unnecessary delay in the execution of the works pursuant to the party structure notice.

[1105]

See note to previous section.

49. Dissent from notices.—If an owner on whom a party structure notice or a counter notice has been served does not within fourteen days thereafter express his consent thereto in writing he shall be deemed to have dissented from the notice and a difference shall be deemed to have arisen between the parties. [1106]

See note to s. 47. This section replaces s. 116 (7) of the Act of 1930 (23 Statutes 280).

50. Underpinning.—(1) Where a building owner—

- (a) proposes to erect within ten feet from any part of a building of an adjoining owner a building or structure independent of the building of the adjoining owner and any part of the proposed building or structure will within the said ten feet extend to a lower level than the level of the bottom of the foundations of the building of the adjoining owner ; or
- (b) proposes to erect within twenty feet from any part of an independent building of an adjoining owner a building or structure any part of which will within the said twenty feet meet a plane drawn downwards in the direction of the building of structure of the building owner at an angle of

forty-five degrees to the horizontal from the line formed by the intersection of the plane of the level of the bottom of the foundations of the building of the adjoining owner with the plane of the external face of the external wall of the building of the adjoining owner ;

he may and if required by the adjoining owner shall subject to the provisions of this section at the expense of the building owner underpin or otherwise strengthen or safeguard the foundations of the building of the adjoining owner so far as may be necessary. [1107]

(2) In any case to which subsection (1) of this section applies the following provisions shall have effect :—

(a) At least one month before beginning to erect a building or structure the building owner shall serve on the adjoining owner notice in writing of his intention so to do and that notice shall state whether he proposes to underpin or otherwise strengthen or safeguard the foundations of the building of the adjoining owner ;

(b) The said notice shall be accompanied by plans and sections showing the site of the building or structure proposed to be erected by the building owner and the depth to which he proposes to excavate :

(c) Within fourteen days after service of the said notice the adjoining owner may serve notice in writing on the building owner that he disputes the necessity of or requires as the case may be the underpinning or strengthening or the safeguarding of the foundations of his building and if the adjoining owner serves such a notice a difference shall be deemed to have arisen between the building owner and the adjoining owner ;

(d) The building owner shall compensate the adjoining owner and any adjoining occupier for any inconvenience loss or damage which may result to any of them by reason of any work executed in pursuance of this section. [1108]

(3) On completion of any work executed in pursuance of this section the building owner shall if so requested by the adjoining owner supply him with particulars including plans and sections of the work. [1109]

(4) Nothing in this section shall relieve the building owner from any liability to which he would otherwise be subject for injury to the adjoining owner or any adjoining occupier by reason of work executed by him. [1110]

This section replaces s. 119 of the Act of 1930 (23 Statutes 283).

51. Execution of works.—(1) A building owner shall not exercise any right conferred on him by this Part of this Act in such manner or at such time as to cause unnecessary inconvenience to the adjoining owner or to the adjoining occupier. [1111]

(2) Where a building owner in exercising any right conferred on him by this Part of this Act lays open any part of the adjoining land or building he shall at his own expense make and maintain so long as may be necessary a proper hoarding shoring or fans or temporary construction for the protection of the adjoining land or building and the security of the adjoining occupier. [1112]

(3) Any works executed in pursuance of this Part of this Act shall—

(a) comply with the provisions of the London Building Acts and any bye-laws made in pursuance of those Acts ; and

- (b) subject to the foregoing paragraph (a) be executed in accordance with such plans sections and particulars as may be agreed between the owners or in the event of difference determined in the manner provided in this Part of this Act and no deviation shall be made therefrom except such as may also be agreed between the parties or in the event of difference determined in manner aforesaid. [1113]

52. Notice of excavation of sites abutting on narrow streets or ways.—Where a building owner proposes to erect any building or structure or carry out any work in relation to a building or structure on land which abuts on a street or way less than twenty feet in width the following provisions shall have effect if the erection of the proposed building or structure or the carrying out of the work involves excavation to a depth of twenty feet or more below the level of the highest part of the land immediately abutting on the street :—

- (a) Notices stating the place (being a place situate at a distance not great than two miles of such land) at and the hours during which plans and sections of so much of the proposed building structure or work as relates to the excavation may be inspected shall be exhibited in a prominent position on the land or on any existing building or on the boundary wall fence or hoarding (if any) surrounding the said land or building and in such a manner as to be readily legible from every street or way on which the land abuts ;
- (b) The notices shall be exhibited at least four weeks before any such work of excavation is begun and shall be maintained and where necessary renewed by the building owner until such work of excavation is begun ;
- (c) The plans and sections referred to in the notices shall until the work of excavation is begun be open to public inspection without payment at the place and during such reasonable hours as are stated in the notice. [1114]

53. Power of entry by building owner.—(1) A building owner his servants agents and workmen may during usual working hours enter and remain on any premises for the purpose of executing and may execute any work in pursuance of this Part of this Act and may remove any furniture or fittings or take any other action necessary for that purpose. [1115]

(2) If the premises are closed the building owner his servants agents and workmen may if accompanied by a constable or other police officer break open any fences or doors in order to enter the premises. [1116]

(3) Before entering any premises in pursuance of this section a building owner shall give to the owner and occupier of the premises—

- (a) in case of emergency such notice of his intention to enter as may be reasonably practicable ;
- (b) in any other case fourteen days' notice of his intention to enter. [1117]

54. Saving for easements.—Nothing in this Part of this Act shall authorise any interference with any easement of light or other easement in or relating to a party wall or prejudicially affect the right of any person to preserve any right in connection with a party wall which is demolished or rebuilt and to take any necessary steps for that purpose. [1118]

Differences between owners

55. Settlement of differences.—Where a difference arises or is deemed to have arisen between a building owner and an adjoining owner in respect of any matter connected with any work to which this Part of this Act relates the following provisions shall have effect :—

(a) Either—

(i) both parties shall concur in the appointment of one surveyor (in this section referred to as an “agreed surveyor”); or

(ii) each party shall appoint a surveyor and the two surveyors so appointed shall select a third surveyor (all of whom are in this section together referred to as “the three surveyors”);

(b) If an agreed surveyor refuses or for ten days after a written request by either party neglects to act or if before the difference is settled he dies or becomes incapable of acting the proceedings for settling such difference shall begin de novo ;

(c) If either party to the difference refuses or for ten days after a written request by the other party neglects to appoint a surveyor under subparagraph (ii) of paragraph (a) of this section that other party may make the appointment on his behalf ;

(d) If before the difference is settled a surveyor appointed under subparagraph (ii) of paragraph (a) of this section by a party to the difference dies or becomes incapable of acting the party who appointed him may appoint another surveyor in his place who shall have the same power and authority as his predecessor ;

(e) If a surveyor appointed under subparagraph (ii) of paragraph (a) of this section by a party to the difference or if a surveyor appointed under paragraph (d) of this section refuses or for ten days after a written request by either party neglects to act the surveyor of the other party may proceed ex parte and anything so done by him shall be as effectual as if he had been an agreed surveyor ;

(f) If a surveyor appointed under subparagraph (ii) of paragraph (a) of this section by a party to the difference refuses or for ten days after a written request by either party neglects to select a third surveyor under paragraph (a) or paragraph (g) of this section the superintending architect or in cases where the Council is a party to the difference the Secretary of State may on the application of either party select a third surveyor who shall have the same power and authority as if he had been selected under paragraph (a) or paragraph (g) of this section ;

(g) If a third surveyor selected under subparagraph (ii) of paragraph (a) of this section refuses or for ten days after a written request by either party or the surveyor appointed by either party neglects to act or if before the difference is settled he dies or becomes incapable of acting the other two of the three surveyors shall forthwith select another surveyor in his place who shall have the same power and authority as his predecessor ;

- (h) All appointments and selections made under this section shall be in writing ;
- (i) The agreed surveyor or as the case may be the three surveyors or any two of them shall settle by award any matter which before the commencement of any work to which a notice under this Part of this Act relates or from time to time during the continuance of such work may be in dispute between the building owner and the adjoining owner ;
- (j) If no two of the three surveyors are in agreement the third surveyor selected in pursuance of this section shall make the award within fourteen days after he is called upon to do so ;
- (k) The award may determine the right to execute and the time and manner of executing any work and generally any other matter arising out of or incidental to the difference :

Provided that any period appointed by the award for executing any work shall not unless otherwise agreed between the building owner and the adjoining owner begin to run until after the expiration of the period prescribed by this Act for service of the notice in respect of which the difference arises or is deemed to have arisen ;

- (l) The costs incurred in making or obtaining an award under this section and the cost of reasonable supervision of carrying out any work to which the award relates shall subject to the provisions of this section be paid by such of the parties as the surveyor or surveyors making the award determine ;
- (m) The award shall be conclusive and shall not except as provided by this section be questioned in any court ;
- (n) Either of the parties to the difference may within fourteen days after the delivery of an award made under this section appeal to the county court against the award and the following provisions shall have effect :—

- (i) Subject as hereafter in this paragraph provided the county court may rescind the award or modify it in such manner and make such order as to costs as it thinks fit ;

- (ii) if the appellant against the award on appearing before the county court is unwilling that the matter should be decided by that court and satisfies that court that he will if the matter is decided against him be liable to pay a sum (exclusive of costs) exceeding one hundred pounds and gives security approved by the county court to prosecute his appeal in the High Court and to abide the event thereof all proceedings in the county court shall be stayed and the appellant may bring an action in the High Court against the other party to the difference ;

- (o) Where an appellant against an award brings an action in the High Court in pursuance of the last preceding paragraph the following provisions shall have effect :—

- (i) If the parties agree as to the facts a special case may be stated for the opinion of the court and may be dealt with in accordance with or as nearly as circumstances admit in accordance with the rules of the court ;

- (ii) In any other case the plaintiff in the action shall deliver to the defendant an issue whereby the matters in difference may be tried ;

- (iii) The issue shall be in such form as may be agreed

between the parties or in case of dispute or of non-appearance of the defendant as may be settled by the court ;

(iv) The action shall proceed and the issue be tried in accordance with or as nearly as circumstances admit in accordance with the rules of the court ;

(v) Any costs incurred by the parties in the county court shall be deemed to be costs incurred in the action in the High Court and be payable accordingly. [1119]

This section replaces s. 117 of the Act of 1930 (23 Statutes 281).

Expenses

56. Expenses in respect of party structures.—(1) The following provisions shall apply with respect to the apportionment of expenses as between the building owner and the adjoining owner :—

- (a) Expenses incurred in the exercise of the rights conferred by paragraph (a) of subsection (1) of section 46 (Rights of owners of adjoining lands where junction line built on) of this Act shall be defrayed by the building owner and the adjoining owner in due proportion regard being had to the use which the two owners respectively make or may make of the party structure or party fence wall ;
- (b) Expenses incurred in the exercise of the rights conferred by paragraph (b) of subsection (1) of the said section together with the expenses of building any additional party structure that may be required by reason of the exercise of those rights shall be defrayed by the building owner and the adjoining owner in due proportion regard being had to the use which the two owners respectively make or may make of the party wall or party structure and the thickness of such party wall or party structure required for support of the respective buildings of the two owners ;
- (c) Expenses incurred in the exercise of the rights conferred by paragraph (c) of subsection (1) of the said section shall be defrayed by the building owner and the adjoining owner in due proportion regard being had to the use which the two owners respectively make or may make of the rooms or storeys rebuilt ;
- (d) Expenses incurred in the exercise of the rights conferred by paragraph (d) of subsection (1) of the said section shall be defrayed by the building owner and the adjoining owner in due proportion regard being had to the use which the two owners respectively make or may make of the buildings arches or structures rebuilt ;
- (e) Expenses incurred in the exercise of the rights conferred by—
 - (i) paragraphs (e) (g) (h) (i) and (k) of subsection (1) of the said section ;
 - (ii) paragraph (f) of subsection (1) of the said section in so far as the expenses are not expenses incurred in the exercise of any rights conferred by other paragraphs of the said subsection and also a fair allowance in respect of the disturbance and inconvenience caused where the expenses have been incurred in the exercise of the rights conferred by the said paragraph (f) ;
 shall be defrayed by the building owner. [1120]

(2) Expenses incurred in the exercise of the rights conferred by paragraph (j) of subsection (1) of the said section shall be defrayed in the same manner as the expenses of the work to which they are incidental. [1121]

(3) Any expenses reasonably incurred by the building owner in executing any works in pursuance of a counter notice served on him by an adjoining owner under section 48 (Counter notices) of this Act shall be defrayed by the adjoining owner. [1122]

(4) If at any time during the execution or after the completion of works carried out in the exercise of the rights conferred by paragraphs (e) (f) (j) or (k) of subsection (1) of section 46 (Rights of owners of adjoining lands where junction line built on) of this Act any use of those works or any part thereof is made by the adjoining owner additional to the use thereof made by him at the time when the works began a due proportion of the expenses incurred by the building owner in the exercise of the rights conferred by any of the said paragraphs regard being had to the additional use of the works made by the adjoining owner shall be defrayed by the adjoining owner. [1123]

(5) Where in pursuance of section 45 (Rights of owners of adjoining lands where junction line not built on) or the said section 46 of this Act consent in writing has been given to the construction of special foundations on land of an adjoining owner then if the adjoining owner erects any building or structure and its cost is found to be increased by reason of the existence of the said foundations the owner of the building to which the said foundations belong shall on receiving an account with any necessary vouchers within two months after the completion of the work by the adjoining owner repay to the adjoining owner so much of the cost as is due to the existence of the said foundations. [1124]

(6) Where under this section expenses are to be defrayed in due proportion regard being had to the use made by an owner of a party structure party fence wall external wall or other work regard shall unless otherwise agreed between the building owner and the adjoining owner or provided in the award also be had to the cost of labour and materials prevailing at the time when that use is made. [1125]

This section replaces s. 120 of the Act of 1930 (23 Statutes 284).

57. Security for expenses.—(1) An adjoining owner may by notice in writing require the building owner before he begins any work in the exercise of the rights conferred by this Part of this Act to give such security as may be agreed between the owners or in the event of dispute determined by a judge of the county court for the payment of all such expenses costs and compensation in respect of the work as may be payable by the building owner. [1126]

(2) Where in the exercise of the rights conferred by this Part of this Act an adjoining owner requires a building owner to carry out any work the expenses of which are to be defrayed in whole or in part by the adjoining owner or where the adjoining owner serves a notice on the building owner under subsection (1) of this section the building owner may before beginning the work to which the requirement or notice relates serve a notice in writing on the adjoining owner requiring him to give such security as may be agreed between the owners or in the event of dispute determined by a judge of the county court for the payment of such expenses costs and compensation in respect of the work as may be payable by him. [1127]

(3) If within one month after receiving a notice under subsection (2)

of this section or in the event of dispute after the date of the determination by the judge of the county court the adjoining owner does not comply therewith the requirement or notice by him to which the building owner's notice under that subsection relates shall cease to have effect. [1128]

This section replaces s. 121 of the Act of 1930 (23 Statutes 286).

58. Account of expenses.—(1) Within two months after the completion of any work executed by a building owner of which the expenses are to be wholly or partially defrayed by an adjoining owner in accordance with section 56 (Expenses in respect of party structures) of this Act the building owner shall deliver to the adjoining owner an account in writing showing—

- (a) particulars and expenses of the work ; and
- (b) any deductions to which the adjoining owner or any other person is entitled in respect of old materials or otherwise ;

and in preparing the account the work shall be estimated and valued at fair average rates and prices according to the nature of the work the locality and the cost of labour and materials prevailing at the time when the work is executed. [1129]

(2) Within one month after delivery of the said account the adjoining owner may give notice in writing to the building owner stating any objection he may have thereto and thereupon a difference shall be deemed to have arisen between the parties. [1130]

(3) If within the said month the adjoining owner does not give notice under subsection (2) of this section he shall be deemed to have no objection to the account. [1131]

This section replaces s. 122 of the Act of 1930 (23 Statutes 286).

59. Recovery of expenses.—(1) All expenses to be defrayed by an adjoining owner in accordance with an account delivered under section 58 (Account of expenses) of this Act shall be paid by the adjoining owner and in default may be recovered as a debt. [1132]

(2) Until an adjoining owner pays to the building owner such expenses as aforesaid the property in any works executed under this Part of this Act to which the expenses relate shall be vested solely in the building owner. [1133]

PART VII

DANGEROUS AND NEGLECTED STRUCTURES

60. Interpretation of Part VII.—In this Part of this Act unless the context otherwise requires—

- (a) the expression "structure" includes any building or wall or other structure and anything affixed to or projecting from any building or wall or other structure ;
- (b) the expression "district surveyor" includes any surveyor who under section 61 (Information as to and survey of dangerous structures) of this Act shall have been required by the Council to make a survey ; and
- (c) as respects dangerous structures where any structure is situate within the city references to the Council shall be deemed to be to the common council. [1134]

Part VII replaces Part X of the Act of 1930 (23 Statutes 287 *et seq.*), which is repealed by this Act. The present section replaces s. 128 (*ibid.*). The duties of the L.C.C. under this Part are ministerial, and may be delegated to officers. (See *L.C.C. v. Hobbs* (1896), 61 J. P. 85 ; 34 Digest 591, *III*)

Dangerous structures

61. Information as to and survey of dangerous structures.—(1) The district surveyor shall make known to the Council any information which he may receive to the effect that any structure is in a dangerous state. [1135]

(2) Where it is made known or represented to the Council that any structure is in a dangerous state the Council shall require a survey of the structure to be made by the district surveyor or by some other competent surveyor. [1136]

(3) The Council may pay to any surveyor (not being a district surveyor) required under subsection (2) of this section to make a survey of a structure such remuneration as they think fit in respect of his services in making that survey. [1137]

(4) Where it is observed by or made known to the district surveyor or the superintending architect that a structure or any part thereof is in such a state as to require treatment for the removal of any immediate danger the district surveyor or the superintending architect or any officer authorised by the Council as the case may be may on behalf of the Council and without prejudice to the exercise of any other powers of this Act take such steps as may be necessary to remove the immediate danger and any steps so taken and any expenses thereby incurred shall for the purposes of this Part of this Act be deemed to have been taken and incurred by the Council :

Provided that as respects any such structure or part thereof situate within the city the common council may appoint some competent person to exercise the powers conferred by this subsection in substitution for the district surveyor or the superintending architect. [1138]

This section replaces s. 129 of the Act of 1930 (23 Statutes 288).

62. Certification of dangerous structures.—(1) The district surveyor upon completing any survey of a structure required to be made under subsection (2) of section 61 (Information as to and survey of dangerous structures) of this Act shall certify to the Council his opinion of the state of the structure. [1139]

(2) If the certificate is to the effect that the structure is not in a dangerous state no further proceedings shall be taken with respect thereto but if it is to the effect that the structure is in a dangerous state the Council may shore up or otherwise secure the structure and may erect a proper hoard or fence for the protection of passengers and shall cause notice in writing to be served on the owner or occupier of the structure requiring him forthwith to take down repair or otherwise secure it as the case requires. [1140]

This section replaces s. 131 of the Act of 1930 (23 Statutes 288).

63. Arbitration.—(1) If the owner of a structure disputes the necessity of any of the requisitions comprised in a notice served under section 62 (Certification of dangerous structures) of this Act he may serve on the Council within seven days after its receipt a written requirement that the dispute shall be referred to arbitration in which case he shall at the same time give notice to the Council of the name of an independent surveyor appointed by him to report jointly with the district surveyor on the condition of the structure. [1141]

(2) Where under this section such written requirement is served the following provisions shall have effect :—

(a) the independent surveyor and the district surveyor shall—

(i) before entering on discussion of the dispute appoint a third surveyor (in this section referred to as “the arbitrator”):

Provided that in the event of disagreement between the two surveyors as to the appointment of the arbitrator a court of summary jurisdiction may on the application of either of them make the appointment; and

(ii) report jointly as aforesaid within seven days after the service of the said written requirement;

(b) any question in relation to the dispute which cannot be agreed between the two surveyors shall be referred to the arbitrator who shall make his award on the question within fourteen days after the reference to him;

(c) the notice served by the Council shall be discharged amended or confirmed in accordance with the decision of the two surveyors or the award of the arbitrator as the case may be;

(d) the costs of and incident to the decision of the two surveyors or (unless the arbitrator otherwise directs) the award of the arbitrator on the question in dispute shall be borne and paid if the determination is adverse to the contention of the district surveyor by the Council and if the determination is adverse to the contention of the owner or the independent surveyor by the owner. [1142]

This section replaces s. 133 of the Act of 1930 (23 Statutes 289).

64. Proceedings to enforce compliance with notice.—(1) If the owner or occupier on whom notice is served under section 62 (Certification of dangerous structures) of this Act fails to comply with the notice or the notice as amended or confirmed in accordance with the decision of the two surveyors or the award of the arbitrator as the case may be as speedily as the nature of the case permits a court of summary jurisdiction on complaint by the Council may order the owner within a time to be fixed by the order to take down repair or otherwise secure to the satisfaction of the district surveyor the structure or such part thereof as appears to the court to be a dangerous state. [1143]

(2) If the requirements of the order are not complied with within the time so fixed the Council may forthwith cause all or as much of the structure as is in a dangerous state to be taken down repaired or otherwise secured in such manner as may be requisite and if the structure or any part thereof is taken down may remove the materials. [1144]

65. Court may make order notwithstanding arbitration.—Notwithstanding the provisions of section 63 (Arbitration) of this Act a court of summary jurisdiction on complaint by the Council may if of opinion that the structure is in such a dangerous state as to require immediate treatment make any order which the court thinks fit for remedying the dangerous state of the structure or taking down repairing or otherwise securing it and the Council may take the like steps for carrying any such order into effect as they may take under section 64 (Proceedings to enforce compliance with notice) of this Act. [1145]

This section replaces s. 134 of the Act of 1930 (23 Statutes 289).

66. Expenses.—All expenses incurred by the Council in respect of any dangerous structure shall be paid by the owner of the structure but

without prejudice to his right to recover the amount of the said expenses from any person liable to pay the expenses of the repair of the structure.

[1146]

This section replaces s. 135 of the Act of 1930 (23 Statutes 289).

67. Power to remove inmates from dangerous structure.—(1) Where a structure has been certified by a district surveyor to be in a state dangerous to its inmates a court of summary jurisdiction may if satisfied of the correctness of the certificate upon the application of the Council by order direct that any inmates of the structure be removed therefrom by a constable or other police officer and if they have no other abode he may require them to be received into any workhouse in London maintained by the Council in virtue of the Poor Law Act 1930 and selected for the purpose by the Council. [1147]

(2) Where the court has so ordered it shall not be lawful for the structure to be occupied unless the dangerous state thereof has been remedied to the satisfaction of the Council or a court of summary jurisdiction has revoked the order. [1148]

This section replaces s. 139 of the Act of 1930 (23 Statutes 290).

68. Shorings &c. upon public streets.—No hoarding or shoring or other support erected upon a public street in connection with a dangerous structure for the purpose of the protection of passengers or the securing of such dangerous structure shall after the structure has been dealt with under the provisions in that behalf of this Act be retained or continued without a licence in writing for that purpose from the local authority which licence shall state the period for which the hoarding shoring or support shall be permitted to continue. [1149]

Neglected structures

69. Removal of dilapidated and neglected structures.—(1) Where a structure is ruinous or so far dilapidated as to have become and to be unfit for use or occupation or is from neglect or otherwise in a structural condition prejudicial to the property in or the inhabitants of the neighbourhood a court of summary jurisdiction on complaint by the Council may order the owner to take down or repair or rebuild the structure (in this Act referred to as a "neglected structure") or any part thereof or to fence in the land upon which it or any part thereof is situate or otherwise to put the structure or any part thereof into a state of repair and good condition to the satisfaction of the Council within a reasonable time to be fixed by the order and may also make an order for the payment by the owner of the costs and expenses incurred by the Council up to the time of the hearing. [1150]

(2) (a) If the order is not obeyed the Council may thereupon enter upon the neglected structure or the land aforesaid and execute the order and may recover from the owner of the structure all costs and expenses incurred by them under this section :

Provided that nothing in this subsection shall prejudice the right of the owner to recover the amount of any costs and expenses paid by him from any person liable to pay the expenses of the repair of the structure.

(b) Where the order directs the taking down of a neglected structure or any part thereof and in pursuance of paragraph (a) of this subsection the Council execute the same they may remove the materials of the structure or part thereof so taken down by them. [1151]

This section replaces s. 140 of the Act of 1930 (23 Statutes 291).

Supplemental provisions as to dangerous and neglected structures

70. Repayment of expenses incurred by Council.—(1) Where the Council have incurred any expenses in respect of any dangerous or neglected structure and have not been paid or have not recovered those expenses it shall notwithstanding anything to the contrary in any Act be lawful for a court of summary jurisdiction on complaint by the Council within twelve months after the date of the demand for the payment of the said expenses to make an order fixing the amount of the said expenses and the costs of the proceedings before the said court and directing that no part of the land upon which the dangerous or neglected structure was or is situate shall be built upon or that no part of the dangerous or neglected structure if repaired or rebuilt shall be let for occupation until after payment to the Council of the said amount and thereupon no part of the said land shall be built upon and no part of the dangerous or neglected structure so repaired or rebuilt shall be let for occupation until payment to the Council of the said amount.

[1152]

(2) (a) Section 15 of the Land Charges Act 1925 shall apply to orders made under subsection (1) of this section and for the removal of doubts it is hereby declared that the said section 15 applies and shall be deemed to have applied heretofore to orders made under section 115 (Removal of dilapidated and neglected buildings) of the London Building Act 1894 or under section 141 (Provision for enforcing repayment of expenses incurred by Council) of the Act of 1930 and any such order is accordingly registrable under the said Act of 1925 as a local land charge.

(b) For the purpose of enforcing any such charge arising out of an order made after the commencement of this Act the Council shall have all the same powers and remedies under the Law of Property Act 1925 and otherwise as if they were mortgagees by deed having powers of sale and lease of accepting surrenders of leases and of appointing a receiver.

[1153]

This section replaces s. 141 of the Act of 1930 (23 Statutes 291).

PART VIII**SKY SIGNS**

71. Prohibition of sky signs.—(1) It shall be unlawful to erect a sky sign or to permit or suffer a sky sign to be erected or to retain a sky sign.

[1154]

(2) Any proceedings in respect of an offence against this Act by reason of a contravention of the provisions of this section or for the demolition or removal of a sky sign shall be taken by the local authority.

[1155]

Part VII of this Act replaces Part XIII of the Act of 1930 (23 Statutes 295, 296). This section replaces and extends s. 149 of that Act (*ibid.*).

72. Removal of sky signs.—If a sky sign is erected or retained the court before whom proceedings are taken may notwithstanding the imposition of any fine and without prejudice to any other powers conferred on the court by this or any other Act make an order directing the person who has erected or retained the sky sign or who has permitted or suffered a sky sign to be erected to demolish or remove it within a period fixed by the order.

[1156]

This section replaces s. 150 of the Act of 1930 (23 Statutes 295).

PART IX

SUPERINTENDING ARCHITECT DISTRICT SURVEYORS AND FEES

Superintending architect

73. Appointment of superintending architect and assistants.—(1) The Council may for the purpose of aiding in the execution of the London Building Acts and any byelaws made in pursuance of those Acts appoint some fit person to be called "the superintending architect of metropolitan buildings" together with such number of assistants as they think fit.

(2) The superintending architect and assistants shall be removeable by the Council.

(3) The superintending architect and assistants shall perform such duties as the Council direct and the Council shall pay to the superintending architect and assistants such salaries as the Council think fit.

(4) The superintending architect shall not on his private account practise the profession of an architect or follow any other occupation.

[1157]

Part IX of this Act replaces Part XIV of the Act of 1930 (23 Statutes 296 *et seq.*), and this section replaces s. 152 (*ibid.* 1297).

74. Deputy to superintending architect.—The superintending architect with the consent of the Council may appoint some other person as his deputy to perform the duties of his office for such time as he may be temporarily prevented by illness infirmity or any other sufficient cause from himself performing them and if the superintending architect shall have made no such appointment or the person appointed by him is so prevented from performing the duties the Council may appoint some other person to act as the deputy to the superintending architect as aforesaid. [1158]

This section replaces s. 153 of the Act of 1930 (23 Statutes 297).

District surveyors.

This group of sections replaces and amends ss. 155—160 of the Act of 1930 (23 Statutes 298—9).

75. Appointment &c. of district surveyors.—(1) For the purpose of aiding in the execution of the London Building Acts and any byelaws made in pursuance of those Acts the Council may appoint such number of duly qualified persons to the office of district surveyor as they think fit.

(2) The Council may allocate among the several district surveyors as they may from time to time think fit the work to be carried out by district surveyors under the said Acts and byelaws.

(3) The Council may give general directions to district surveyors in relation to matters of general administrative policy and for the purpose of securing uniformity in the administration of the said Acts and byelaws and the district surveyors shall observe any such general directions.

(4) The Council may pay such salary to and attach such terms and conditions to the holding of office by a district surveyor as they think fit.

(5) Any person appointed to the office of district surveyor—

(i) shall be by virtue of that appointment an officer of the Council;

(ii) shall hold the office during the pleasure of the Council;

(iii) shall in addition to discharging the functions of a district

surveyor under the said Acts and byelaws perform such other duties as may be assigned to him by the Council.

[1159]

76. Qualifications of district surveyor.—No person shall be qualified to hold the office of district surveyor unless he—

- (a) possesses a certificate either—
 - (i) of proficiency to perform the duties of the said office granted by the board constituted under section 77 (Examination of candidates for office of district surveyor) of this Act; or
 - (ii) of competency to perform the duties of the said office granted before the commencement of this Act by the Royal Institute of British Architects; or
- (b) has been examined by the Council and found by them competent to perform the duties of the said office; or
- (c) has filled the office of district surveyor. [1160]

77. Examination of candidates for office of district surveyor.—(1) An examination of persons desirous of obtaining a certificate of proficiency to perform the duties of district surveyor may be conducted by a board constituted in accordance with the provisions of this section (in this section referred to as “the board”).

(2) The board shall consist of such number of persons as the Council may from time to time determine and shall include representatives of the Council and persons nominated for the purpose by the Royal Institute of British Architects and by such other professional institutions or appropriate bodies as the Council may from time to time think fit.

(3) The members of the board shall be appointed by the Council and every member of the board shall hold office for a period of three years :

Provided that a member may at any time resign his office.

(4) A member ceasing to hold office shall be eligible for re-appointment.

(5) The functions of the board may be exercised notwithstanding any vacancy in their number.

(6) The board shall elect from its own members a chairman and may appoint committees.

(7) The quorum and proceedings of the board and of any committee appointed by them shall be such as the board may determine.

(8) In the case of equality of votes on any question the chairman of the board or of any committee appointed by them shall have a second or a casting vote.

(9) (a) The board shall conduct in London as and when required by the Council examinations in proficiency to perform the duties of district surveyor.

(b) Reasonable notice of the intention of the board to conduct an examination shall be publicly given by the Council in such manner as they think fit.

(c) The board may make regulations as to candidature for and the conduct of examinations of the board and may thereby prescribe reasonable fees to be paid by candidates but such regulations shall not come into force until approved by the Council.

(d) Every examination paper set for an examination of the board

shall be approved by the board or by a committee appointed by them consisting of not less than seven members of the board and a copy of every such examination paper shall be forwarded to the Council within seven days after the holding of the examination.

(10) The board shall grant a certificate of proficiency to perform the duties of a district surveyor to every person who in an examination of the board attains such standard as may be prescribed by the board but shall not grant such certificate to any other person.

(11) The board may obtain such professional advice and assistance for the purposes of discharging their functions as may be approved by the Council.

(12) The Council shall provide for the board offices and other accommodation and clerical and other assistance.

(13) All fees and money paid to the board shall be paid by them to the Council and the expenses reasonably incurred by the board shall be defrayed by the Council. [1161]

78. Existing district surveyors.—(1) An existing district surveyor shall be deemed to have been appointed to the office of district surveyor under this Act and except as may have been or be otherwise agreed in writing between the Council and an existing district surveyor the provisions of section 75 (Appointment &c. of district surveyors) of this Act shall as from the commencement of this Act apply to an existing district surveyor in the same manner and to the same extent as to any person appointed after the commencement of this Act to the office of district surveyor :

Provided that the powers of subsection (2) of the said section 75 shall not be exercised by the Council with respect to an existing district surveyor except so far as may be arranged between the Council and such district surveyor but this restriction shall not prevent the Council from directing any district surveyor to perform any duties which any other district surveyor is in the opinion of the Council unable to discharge promptly and efficiently by reason of pressure of business or for any other reason (including absence from duty on holiday or sick leave) nor shall this restriction prevent the Council from doing in pursuance of the said subsection (2) of section 75 anything which they would have been entitled to do under paragraph (a) of subsection (1) of section 155 (Powers of Council as to district surveyors and districts) of the Act of 1930 if that paragraph had continued in force.

(2) As respects any existing district surveyor who has before the commencement of this Act attained the age of fifty-five years and who is not entitled or permitted to contribute to the superannuation and provident fund established in pursuance of the provisions of Part IV (Superannuation &c.) of the London Council (General Powers) Act 1891 the Council shall on his ceasing to hold that office either by retirement therefrom or on account of his death pay to him or his personal representatives as the case may be a gratuity in a lump sum equal to one eighth of the amount of the annual salary he was receiving at the date of retirement or death. [1162]

79. Compensation to existing district surveyors.—(1) If an existing district surveyor—

(a) is retired or removed from the service of the Council before attaining the age of sixty-five years—

(i) in consequence of the exercise of the power of the

Council to allocate among the several district surveyors the work to be carried out by district surveyors under the London Building Acts and any byelaws made in pursuance of those Acts (including any alteration of the limits of the district of any existing district surveyor or the uniting of any two or more such districts); or

(ii) in consequence of the abolition of his office or for the purpose of facilitating improvements in the organisation by which greater efficiency and economy can be effected; or

(b) relinquishes his office and becomes entitled in pursuance of and subject to the terms of any agreement between the Council and the existing district surveyor but not otherwise to claim compensation;

the Council shall pay him such special allowance or allowances (in the form of an annual allowance for life or for a state period or of a lump sum or partly of such an allowance and partly of a lump sum) by way of compensation as on a full consideration of the circumstances of the case may be agreed between him and the Council to be reasonable and just compensation for the loss of his office or failing such an agreement as may be determined by the Minister.

(2) Any agreement entered into between the Council and an existing district surveyor may with the consent of the Minister provide for the determination by the Minister of any question referred to him in pursuance of such agreement. [1163]

80. Appointment of deputy or temporary district surveyors.—(1) (a) The Council may appoint some person to act as deputy to a district surveyor and to perform his duties for such time as he may be temporarily prevented by illness infirmity or any other sufficient cause from himself performing them.

(b) The Council shall except in a case of urgency or where it is impracticable so to do consult the district surveyor concerned before appointing any person to act as his deputy.

(2) The Council may where they consider such a course necessary appoint for a limited period some person to act as a district surveyor.

(3) Any person appointed under this section shall carry out such work as may be allocated to him by the Council and as respects such work shall have all the powers of a district surveyor but any person so appointed shall not be deemed to have by virtue of that appointment filled the office of district surveyor for the purposes of paragraph (c) of section 76 (Qualifications of district surveyor) of this Act.

(4) The Council may pay such remuneration to any person appointed under this section as they think fit. [1164]

81. Office accommodation and assistance for district surveyors &c.—

(1) The Council may provide for the use of district surveyors such office accommodation and also such technical and other assistance as the Council think fit and may incur expenses in or in connection with the administration of so much of the London Building Acts and byelaws made in pursuance of those Acts as is placed under the supervision of the district surveyor.

(2) The Council shall forthwith communicate to the local authority concerned any change in the address of the office of a district surveyor.

[1165]

82. Duties of district surveyors.—(1) Subject to the provisions of the London Building Acts and of any byelaws made in pursuance of those Acts every building or structure and every work to in or upon a building or structure and all matters relating to the width and direction of streets the general line of buildings in streets the provision of open spaces about buildings the height of buildings and all works in pursuance of Part V (Means of escape in case of fire) of this Act shall be subject to the supervision of the district surveyor.

(2) Every district surveyor shall upon the receipt of a building notice as defined by section 83 (Service of building notices) of this Act or upon its being observed by or made known to him that any building structure or work is affected by any provision of the London Building Acts or of any byelaws made in pursuance of those Acts in respect of which building structure or work no notice has been given and also from time to time during the progress of any work which is affected by any such provision as often as may be necessary for securing the due observance of the provision survey any building structure or work placed under his supervision and shall cause every such provision to be duly observed.

(3) Every district surveyor upon observing or receiving information of any actual or probable contravention of the provisions of the London Building Acts or of any byelaws made in pursuance of those Acts with which it is not within his competence to deal shall forthwith give notice to the Council of the same. [1166]

This section replaces s. 154 of the Act of 1930 (23 Statutes 298).

Building notices notices of objection and notices of irregularity

83. Service of building notices.—Save as otherwise expressly provided in the London Building Acts a builder shall—

- (a) when a building or structure or work is about to be begun then two clear days before it is begun ; and
- (b) when a building or structure or work is after having been begun suspended for any period exceeding three months then two clear days before it is resumed ; and
- (c) when during the progress of a building or structure or work the builder employed thereon has been changed then two clear days before the new builder begins work thereon ;

serve on the district surveyor a notice (in this Act referred to as a "building notice") respecting the building or structure or work which notice shall comply with the provisions of section 84 (Contents of building notices information as to cost &c.) of this Act and all works in progress at the same time to in or upon the same building or structure may be included in one building notice :

Provided that any act or work which by reason of emergency requires to be begun or done immediately or before the building notice relating thereto can be given may be begun or done but the building notice shall be served on the district surveyor not more than twenty-four hours after the act or work has been begun. [1167]

This section replaces s. 161 of the Act of 1930 (23 Statutes 299).

84. Contents of building notices information as to cost &c.—(1) Every building notice shall state the situation area height number of storeys and proposed use of the building or structure and the number of buildings or structures if more than one and the particulars of the

proposed work and in addition to the name and address of the builder shall state those of the owner then in possession of and the occupier of the building or structure or of its site or proposed site. [1168]

(2) Every building notice shall state in addition to the matters mentioned in subsection (1) of this section the cubical extent of the building or structure and a building notice which relates to any addition alteration or other work to which the provisions of the London Building Acts or of any byelaws made in pursuance of those Acts apply proposed to be made or done to in or upon a building or structure shall state the cubical extent of the building or structure as proposed to be altered :

Provided that the district surveyor may subject to such conditions (if any) as he thinks fit in any case waive the requirements of this subsection. [1169]

(3) The builder shall within fourteen days after the completion of any such addition alteration or other work as aforesaid give to the district surveyor a statement in writing of the cost thereof and shall within fourteen days after the receipt of a written request from the district surveyor give to him such information and evidence as he may reasonably require with reference to such cost but any statement information or evidence given to the district surveyor in pursuance of this subsection shall not be used for any purpose other than a purpose of this Act. [1170]

(4) If any proceedings are taken for the recovery of any fees in respect of any building structure addition alteration or other work and the court before which the proceedings are taken is of opinion that no such statement of cubical extent as aforesaid has been given or that any information or evidence as to cost which should have been given or furnished under subsection (3) of this section has not been given or furnished or that any such statement information or evidence is in any respect erroneous the court may determine the cubical extent of the building or structure and the cost of the addition alteration or other work or either of those matters and the appropriate fee payable to the Council in respect thereof under the London Building Acts or under any byelaws made in pursuance of those Acts and that determination shall be final and the court may make an order for the payment of the fee so determined without any further proceedings for the purpose. [1171]

(5) Nothing in subsections (2) to (4) of this section shall apply to any building or structure or work to which section 149 (Buildings exempt from provisions of Parts III and IV &c.) of this Act applies. [1172]

This section replaces s. 162 of the Act of 1930 (23 Statutes 300).

85. Building notice to be prima facie evidence.—Any building notice plans elevations sections calculations statement of cost information evidence or other particulars furnished in pursuance of section 83 (Service of building notices) or section 84 (Contents of building notices information as to cost &c.) of this Act or any byelaws made in pursuance of the London Building Acts shall be prima facie evidence as against the builder or in his default the owner or occupier of the nature and cost of the building or structure or work to which they refer. [1173]

This section replaces s. 165 of the Act of 1930 (23 Statutes 301).

86. Appeal against decision of district surveyor.—(1) Save as otherwise expressly provided in the London Building Acts where in those

Acts or in any byelaws made in pursuance of those Acts it is provided that any matter or thing shall be or any work shall be carried out to the satisfaction or subject to the approval of or shall be certified by the district surveyor the builder or owner concerned if dissatisfied with any decision or requirement of a district surveyor made under the said Acts or byelaws (other than in the case of any provision that any work shall be carried out to the satisfaction of the district surveyor in a proper and workmanlike manner) may apply to the Council to determine the question. [1174]

(2) The Council may reverse affirm or amend the decision or requirement of the district surveyor in respect of which application is made to them in pursuance of subsection (1) of this section and may determine the matter as the circumstances of the case require and subject to the provisions of subsection (3) of this section the determination of the Council shall be substituted for the decision or requirement of the district surveyor and such determination shall be enforced in the same manner as if it were a decision or requirement of the district surveyor. [1175]

(3) The builder or owner if aggrieved by the determination of the Council under this section may appeal to the tribunal of appeal except in any case in which in the opinion of the Council the matter thing or work is likely to affect the stability or the protection in case of fire of the building or structure. [1176]

(4) The Council may make regulations with respect to the procedure to be followed in connection with applications under subsection (1) of this section. [1177]

(5) The provisions of this section shall not apply to any decision or requirement of a district surveyor under section 64 (Proceedings to enforce compliance with notice) of this Act. [1178]

87. Service of notice of objection.—(1) Where it appears from a building notice that it is proposed to erect a building or structure or to do any work to in or upon a building or structure which will contravene the provisions of the London Building Acts or of any byelaws made in pursuance of those Acts or that anything required by those Acts or any such byelaws is proposed to be omitted the district surveyor shall serve upon the builder or owner or other person causing or directing the work a notice in writing (in this Act referred to as a “notice of objection”) objecting to the proposed erection or work and the builder or the owner or other person causing or directing the work if dissatisfied with the decision of the district surveyor may within fourteen days after the date of service of the notice of objection appeal to a court of summary jurisdiction who may make an order either affirming the objection or otherwise. [1179]

(2) The provisions of this section shall not apply with regard to any work proposed to be done in execution or purported execution of any requirement in Part V (Means of escape in case of fire) of this Act. [1180]

This section replaces s. 168 of the Act of 1930 (23 Statutes 302).

88. Service of notice of irregularity.—Where—

(a) in erecting a building or structure or in doing any work to in or upon a building or structure anything is done in contravention of the provisions of the London Building Acts or of any byelaws made in pursuance of those Acts

or anything required by those Acts or any such byelaws is omitted to be done; or

- (b) the district surveyor on surveying or inspecting a building or structure or work in respect of which notice has not been served as required by the said Acts or byelaws finds that it is so far advanced that he cannot ascertain whether anything has been done in contravention of the provisions of the said Acts or byelaws or whether anything required by the said Acts or byelaws has been omitted to be done;

the district surveyor shall serve on the builder engaged in erecting the building or structure or in doing the work a notice (in this Act referred to as a "notice of irregularity") requiring him within forty-eight hours after the date of the notice to amend anything done in contravention of the provisions of the said Acts or byelaws or to do anything required to be done by the said Acts or byelaws which has been omitted to be done or to cut into lay open or demolish so much of the building structure or work as prevents the district surveyor from ascertaining whether anything has been done or omitted to be done as aforesaid.

[1181]

This section replaces s. 169 of the Act of 1930 (23 Statutes 302).

89. Notice of irregularity after completion of building work &c.—

(1) In order to provide for the service of a notice of irregularity after and notwithstanding that a building or structure has ceased to be in the charge or of under the control of a builder the following provisions shall have effect:—

- (a) If notice in writing has been served upon the district surveyor by the builder or by the owner of the building or structure stating the date at which the building or structure has ceased to be in the charge of or under the control of the builder then at any time within fourteen days after the service of that notice a notice of irregularity may if the district surveyor thinks fit be served on the owner or occupier of the building or structure or other person causing or directing or who has caused or directed the building or structure to be erected or work to be done instead of or in addition to the builder;

- (b) Where no such notice has been served upon the district surveyor a notice of irregularity may at any time within twenty-one days after completion of the building structure or work be served on the owner or occupier of the building or structure or other person causing or directing or who has caused or directed the building or structure to be erected or work to be done instead of or in addition to the builder. [1182]

(2) Where any building or structure has been erected or work has been done but such notice of the intention to erect the building or structure or do the work has not been given to the district surveyor as is required by the London Building Acts or any byelaws made in pursuance of those Acts the district surveyor may at any time within twenty-one days after he has discovered that the building or structure has been erected or work has been done serve a notice of irregularity on the owner or occupier of the building or structure or other person who has caused or directed the building or structure to be erected or work to be done. [1183]

(3) If such owner occupier or other person does not allow the builder to comply with a notice of irregularity served on the builder and the builder serves notice on the district surveyor to that effect a notice of irregularity may at any time within fourteen days thereafter be served on such owner occupier or other person instead of or in addition to the builder. [1184]

(4) Where a notice of irregularity is served under this section the provisions of this Act as to the consequences of the notice so far as they relate to the builder shall apply to the owner occupier or other person served. [1185]

(5) Nothing in this section shall prejudicially affect any remedy of an owner occupier or other person against a builder. [1186]

This section replaces s. 170 of the Act of 1930 (23 Statutes 302).

90. Non-compliance with notice of irregularity.—If the person on whom a notice of irregularity is served does not comply with that notice within the period named therein a court of summary jurisdiction may on complaint by the district surveyor notwithstanding the imposition of any fine and without prejudice to any other powers conferred on the court by this or any other Act make an order requiring that person to comply within a period to be named in the order with the notice or with any requisitions therein which may in the opinion of the court be authorised by the London Building Acts or any byelaws made in pursuance of those Acts. [1187]

This section replaces s. 171 of the Act of 1930 (23 Statutes 303).

Fees

91. Fees to Council in respect of dangerous or neglected structures.—

(1) The fees specified in Part I of the First Schedule to this Act shall be payable in accordance with the provisions thereof at the Council in respect of a dangerous or neglected structure.

(2) In respect of any special service under Part VII (Dangerous and neglected structures) of this Act required to be performed by the district surveyor for which a fee is not specified in the First Schedule to this Act such fee as may be reasonable in the circumstances shall be payable to the Council.

(3) If in consequence of default by the owner of a dangerous structure in complying with an order of a court of summary jurisdiction made under section 64 (Proceedings to enforce compliance with notice) or section 65 (Court may make order notwithstanding arbitration) of this Act the Council themselves cause all or part of the structure to be taken down repaired or otherwise secured the fees calculated in accordance with the provisions of Part II of the said First Schedule shall be payable to the Council and such fees shall be in addition to any expenses payable to the Council.

(4) All fees payable under this section in connection with any dangerous or neglected structure shall be deemed to be costs or expenses incurred by the Council in respect of that structure and shall be recoverable from the owner thereof by the Council accordingly.

(5) Any fees payable to the common council under this section shall be paid to the chamberlain of the city and be carried by him to the credit of the general rate.

(6) The amount of all fees payable under this section to the common council in respect of the services of district surveyors appointed by the

Council in relation to dangerous structures situate within the city shall be paid to the Council by the common council.

(7) In this section the expression "district surveyor" has the meaning assigned to it by Part VII (Dangerous and neglected structures) of this Act and paragraph (c) of section 60 (Interpretation of Part VII) of this Act shall apply to this section. [1188]

92. Fees payable by builders or by owners or occupiers to Council.—The following provisions shall have effect with respect to fees payable by builders or by owners or occupiers to the Council :—

- (a) The builder or in his default the owner or occupier as the case may be of a building structure or work mentioned in Part I of the Second Schedule to this Act shall pay to the Council in respect of the building structure or work fees in accordance with the said Part I or such other fees not exceeding the amount specified in the said Part I as the Council may from time to time determine :
- (b) Where any building wherein the loads and stresses are transmitted through each storey to the foundations wholly or principally by a skeleton framework of steel or reinforced concrete or both is erected or converted or any addition or alteration or any other work is made or done to in or upon any such building the builder or in his default the owner or occupier as the case may be of the building shall pay to the Council fees in accordance with Part II of the Second Schedule to this Act ;
- (c) The builder employed in erecting any building or in doing any work or thing in respect of which any service has been performed by the district surveyor in relation to Part V (Means of escape in case of fire) of this Act, or in default of the builder the owner or occupier as the case may be of the building or of any building in respect whereof the work or thing has been done shall pay to the Council fees in accordance with Part III of the Second Schedule to this Act and such fees shall be in addition to any other fees payable to the Council. [1189]

93. Calculation of amount of fees.—(1) In calculating any fee payable to the Council the amount whereof is to be calculated in accordance with the Second Schedule to this Act regard shall be had to the rules set out in Part IV of that schedule.

(2) For the purpose of such calculation the following expressions have the meanings hereby respectively assigned to them :—

"cost" in relation to any addition alteration or other work means the cost of and incidental to the addition alteration or other work exclusive of any fees payable to an architect or a quantity surveyor in respect thereof or of the cost of such decorations fittings and other matters as are not subject to the supervision of the district surveyor ;

"cubical extent" in relation to a building or structure or proposed building or structure means the space contained or proposed to be contained within the external surfaces of its walls and roof and the plane of the foundations of the building or structure :

Provided that—

- (a) where the building or structure or part thereof is or

is proposed to be wholly or partly enclosed vertically by party or division walls the external surface of each such wall shall be deemed to correspond with a plane bisecting the thickness thereof ;

(b) where the building or structure is or is proposed to be on one or more of its sides not enclosed by a wall or walls the building or structure where unenclosed shall be deemed to be enclosed by walls with the external surfaces thereof in a vertical plane extending downwards from the outer edge of the roof ; and

(c) where the building or structure is or is proposed to be erected without a roof the building or structure shall be deemed to be covered by a roof with an external surface in a plane with the tops of the walls or other enclosures of such building or structure ;

“ plane of the foundations ” in relation to a building or structure means—

(i) where the foundations are wholly of the trench type or wholly in the form of a raft or partly of the trench type and partly in the form of a raft the level of the bottom of the trenches or of the under-surface of the raft or (where the foundations are not of a uniform depth) the mean level (having regard to both area and depth) of the bottoms of the trenches and of the under-surface of the raft ;

(ii) where the whole of the building or structure is erected upon piers or piles the level of one-half of the average vertical length of the piers or piles ;*

(iii) where a part or parts only of the building or structure is or are erected upon piers or piles the level or (where the foundations are not of a uniform depth) the mean level (having regard to both area and depth) of the part or parts so erected ascertained according to the foregoing paragraph (ii) and of the remainder of the building or structure ascertained according to the foregoing paragraph (i) :

Provided that where an addition alteration or other work is proposed to in or upon a building or structure and the depth of the foundations of the building or structure cannot be readily ascertained the expression “ plane of the foundations ” means a level two feet below the upper surface of the lowest floor of the building or structure if the building or structure is less than four storeys in height and five feet below the said upper surface if the building or structure is four or more storeys in height and where the surface of the lowest floor is not of a uniform level the mean level thereof (having regard to both area and depth) shall be deemed to be the upper surface thereof.

(3) The amount of any fee payable to the Council under this Act or any byelaws made in pursuance of the London Building Acts shall be the amount thereof payable at the time at which the fee becomes due. [1190]

94. Accrual of fees.—(1) At the expiration of—

(a) fourteen days after the roof of any building surveyed by a district surveyor under this Act has been covered in or in the case of a building or structure proposed to be erected

without a roof fourteen days after the tops of the walls or other enclosures have been completed ; and

- (b) fourteen days after the completion of any work by this Act placed under the supervision of a district surveyor ; and
- (c) fourteen days after any special service in respect of any building structure or land has been performed by a district surveyor ;

the Council shall be entitled to receive the fees due to them from the builder employed in erecting the building or structure or in doing the work or in doing anything in respect of which any special service has been performed by the district surveyor or from the owner or occupier of the building or structure so erected or in respect of which the work has been done or service performed or of the land in upon or in respect of which the work has been done on service performed :

Provided that—

- (i) where calculations as respects any building referred to in heading (b) of Part I of the Second Schedule to this Act are submitted under the provisions of any byelaws made in pursuance of the London Building Acts a fee equal to one-fourth of the fee specified in that paragraph ;
- (ii) the fee specified in paragraph (i) of heading (a) of Part II of the Second Schedule to this Act in relation to any building referred to in that paragraph ;

shall be payable to the Council at the time when the building notice in respect of that building is served on the district surveyor and in any case where the fee referred to in paragraph (i) of this proviso is so paid the remaining three-fourths of the fee specified in the said heading (b) shall be payable in accordance with the provisions of this section.

(2) If any such builder owner or occupier neglects to pay any fee payable by him the fee may be recovered on proof to the satisfaction of the court that a proper account specifying the amount of the fee was delivered to him or sent to him. [1191]

95. Remission or abatement of fees.—The Council may remit or abate the amount of any fee payable to them under this Act or any byelaws made in pursuance of the London Building Acts as they think fit. [1192]

96. Recovery of fees under London Building Acts.—(1) Proceedings for the recovery of fees payable to the Council in virtue of the London Building Acts or any byelaws made in pursuance of those Acts may be taken by the district surveyor.

(2) The district surveyor may recover and retain any fee to which he became entitled before the commencement of this Act under the provisions of the Act of 1930 or of any byelaws made in pursuance of that Act or the Act of 1935 in the same manner as if this Act had not been passed. [1193]

PART X

BYELAWS

97. Additional matters to be dealt with by byelaws.—(1) In addition to the matters with respect to which the Council may make byelaws

in pursuance of the Act of 1935 the Council may make byelaws in pursuance of that Act—

- (a) with respect to lifts hoists and escalators in or in connection with buildings not being lifts hoists or escalators which are or can be regulated by or under any provision of the Factories Act 1937 or the Road and Rail Traffic Act 1933 or are required by any enactment to be constructed in accordance with plans approved by the Minister of Transport and the enclosures thereof and in particular but without prejudice to the generality of the foregoing power the byelaws may provide in regard to lifts hoists and escalators or such classes thereof as shall be specified in or not exempted from the byelaws—
 - (i) for lifts hoists and escalators and all appliances forming part of or connected therewith to be properly installed and maintained under the supervision of the district surveyor or the Council as may be prescribed in the byelaws and to be subject to such examination by the district surveyor or the Council or such other person and at such periods as may be so prescribed and for the display of the certificate of such examination ;
 - (ii) for the maximum working load of a lift hoist or escalator or the maximum number of persons to be conveyed therein or thereon at any one time to be displayed ;
 - (iii) for such of the byelaws as may be specified therein to be applicable to lifts hoists and escalators installed before the commencement of this Act ;
 - (iv) that a lift hoist or escalator to which the byelaws apply shall not be used for carrying passengers or goods unless it is enclosed equipped and maintained in accordance with the byelaws ;
- (b) with respect to the installation of gas meters in buildings erected altered or converted after the date on which such byelaws come into operation and in particular but without prejudice to the generality of the foregoing power the byelaws may provide for—
 - (i) the regulation or control of the position in the building in which gas meters may be installed ;
 - (ii) the protection of the meter from the effects of fire in the building ; and
 - (iii) the ventilation of enclosed spaces containing gas meters ;
- (c) with respect to the provision on or adjacent to window-frames in buildings erected before or after the commencement of this Act of eyelets or other similar apparatus designed to facilitate the use of safety belts by persons working outside windows ;
- (d) with respect to steps constructed after the coming into operation of the byelaws and forming an approach to a building ;
- (e) with respect to the space between railings or balusters of or the size of apertures in any fence separating the curtilage of a building from a street and such byelaws may apply to fences in connection with buildings erected after the date of the coming into operation of the byelaws and to fences erected

or reconstructed after that date in connection with buildings erected before that date ;

(f) with respect to the prohibition or regulation of—

(i) spikes or similar projections forming part of or in connection with any fence ;

(ii) broken glass or any similar substance on any fence ; separating from a street the curtilage of a building erected after the date of the coming into operation of the byelaws ;

(g) with respect to the prohibition or regulation of the attachment of barbed wire to the blinds of windows ; and

(h) with respect to the prohibition or regulation for the purpose of securing the safety of persons in a building used for retail trade or in the case of a building partly used for that purpose in the part so used of the holding therein of all or any of the following attractions (that is to say) :—

sales bazaars exhibitions special displays or entertainments in respect of which a licence is not required from the Lord Chamberlain or the Council the holding of which attractions is likely to lead to the presence in the building or the part of a building as the case may be of a substantially larger number of persons than is usual during business hours when no such attractions are being held ; and in particular but without prejudice to the generality of the foregoing power the byelaws may provide in regard to all or any of the said attractions for—

(i) the deposit of plans and particulars in connection with the arrangements for the holding of the attraction ;

(ii) the number of persons who may be permitted to be at any one time within the building or the part of a building or any portion of such building or part ;

(iii) the elimination from the building or the part of a building or any portion of such building or part of articles composed wholly or partly of celluloid xylonite or similar substances or other highly inflammable goods (including liquids) ;

(iv) the precautions to be taken against the occurrence or the spread of fire including the provision of adequate fire appliances ; and

(v) the number of attendants to be employed and the duties to be performed by them during any such attraction ;

the byelaws may differ as respects different buildings or parts of buildings and as respects different attractions and the powers conferred by this paragraph shall be in addition to any other powers contained in the London Building Acts or other byelaws made in pursuance of those Acts ;

and the aforesaid matters shall be deemed to be matters referred to in subsection (1) of section 4 (Power to Council to make byelaws) of the Act of 1985. [1194]

(2) For the purposes of this section the word “ fence ” includes a wall. [1195]

(3) Byelaws made in pursuance of paragraphs (e) (f) and (g) of subsection (1) of this section shall be administered by the local authority. [1196]

(4) Byelaws made in pursuance of paragraphs (b) and (c) of subsection (1) of this section shall not apply to any building belonging to the Port of London Authority which is exempt from the operation of Part III (Construction of buildings) and Part IV (Special and temporary buildings and structures) of this Act and byelaws made in pursuance of paragraph (e) of that subsection shall not apply to any such building unless the street mentioned in that paragraph is a highway. [1197]

(5) Byelaws made in pursuance of paragraph (b) of subsection (1) of this section shall not apply to any gas meter installed or proposed to be installed within the curtilage of a gasworks and used or intended to be used by a gas company for the purposes of or in connection with any process of the manufacture of gas or residual products. [1198]

98. Byelaws with respect to construction and conversion of buildings &c.—(1) The powers of the Council to make byelaws in pursuance of section 4 (Power to Council to make byelaws) of the Act of 1935 with respect to the construction and conversion of buildings and structures and any part thereof and the materials to be used in such construction or conversion and other matters shall without prejudice to the generality of those powers extend to enable byelaws to be made thereunder with respect to—

- (i) the specification of tests for ascertaining the periods of time throughout which a constructional part of a building or structure or of a part of a building or structure will be capable of resisting the action of fire to such extent as may be prescribed in the byelaws ;
- (ii) (a) the periods of time throughout which a constructional part of a building or structure or of a part of a building or structure is to be capable of resisting to such extent as may be prescribed by the byelaws the action of fire under specified tests ; and
(b) the subdivision of a building into divisions or cells to retard the spread of fire regard being had to the position arrangement and user of such building structure or any part thereof ;
- (iii) the classification of a building or structure or part of a building or structure in relation to the resistance to the action of fire of the constructional parts thereof and the certification by the district surveyor of each building structure or part of a building or structure so classified and the registration by the Council of such certificate ;
- (iv) the limitation of the use of buildings or structures or parts thereof by reference to the aforesaid classification ;
- (v) the provision in a building or structure or part of a building or structure to which the byelaws apply of appliances and means for extinguishing and retarding the spread of fire and the maintenance of such appliances and means ;
- (vi) the uniting of buildings or structures or parts of buildings or structures to which the byelaws apply. [1199]

(2) Any such byelaws may replace the whole or part of the provisions of section 20 (Precautions against fire in certain buildings and cubical extent of buildings) section 21 (Uniting of buildings) and section 22 (Division walls to be subject to provisions relating to party walls) of this Act and any such byelaws shall specify to what extent the enactment

or part thereof is so replaced and as from the coming into operation of any such byelaws such enactment or part thereof so specified is hereby repealed. [1200]

99. Byelaws to replace enactments as to fees.—(1) Byelaws made in pursuance of section 4 (Power to Council to make byelaws) of the Act of 1935 in relation to the matters referred to in subsection (1) of that section may regulate the amounts of the fees to be paid to the Council in respect of the services of the district surveyors under any byelaws made in pursuance of the London Building Acts and any such byelaws regulating the amount of such fees may replace any of the provisions of section 92 (Fees payable by builders or by owners or occupiers to Council) or section 93 (Calculation of amount of fees) or section 94 (Accrual of fees) of this Act or of the Second Schedule to this Act and shall specify the said provisions so replaced and as from the coming into operation of any such byelaw the said provisions so specified are hereby repealed. [1201]

(2) Paragraph (f) of subsection (2) of the said section of the Act of 1935 shall cease to have effect. [1202]

100. Proceedings for continuing offences.—In any case in which an offence (being an offence for the continuance of which a fine was provided) has been committed under any enactment repealed by this Part of this Act proceedings in respect of the continuance of the offence after such repeal may be taken under the byelaw which replaces the enactment in the same manner as if the offence had been committed under that byelaw. [1203]

PART XI

LEGAL PROCEEDINGS

101. Recovery of expenses and fines.—(1) Save as otherwise expressly provided all offences against the London Buildings Acts or any byelaws made in pursuance of those Acts and all fines costs charges fees and expenses imposed or recoverable thereunder or in pursuance thereof may be prosecuted or recovered in a summary manner;

Provided that costs charges fees and expenses except such as are recoverable along with a fine shall not be recovered as penalties but may be recovered summarily as civil debts.

(2) Where proceedings are taken in pursuance of this section for the recovery of expenses incurred by the Council the production of a document under the hand of the comptroller of the Council or other officer purporting to be authorised in that behalf by the Council certifying that the expenses were incurred shall until the contrary is proved be deemed to be sufficient evidence that the expenses have been in fact incurred. [1204]

This Part of the Act replaces Part XVI (Legal Proceedings) of the Act of 1930 (23 Statutes 310) and this section replaces s. 187 (*ibid.*).

102. Proceedings by district surveyor.—(1) Any proceedings taken by a district surveyor may be continued by his duly appointed deputy or successor.

(2) In any case where proceedings under the London Building Acts or any byelaws made in pursuance of those Acts have been or may be undertaken by a district surveyor the Council may continue or undertake any such proceedings.

(3) Any expenses necessarily incurred by a district surveyor in or in connection with proceedings under the London Building Acts or any byelaws made in pursuance of those Acts shall be defrayed by the Council and any costs recovered by him in connection with any such proceedings shall be paid by him to the Council. [1205]

This section replaces s. 188 of the Act of 1930 (23 Statutes 310).

103. Powers of and appeal from county court.—(1) Where jurisdiction is by this Act given to a county court that court may settle the time and manner of the execution of any work or of the doing of any other thing and may impose upon the parties to the case such terms as respects the execution of the work as the court thinks fit.

(2) Any person shall have the same right of appeal from any decision of a county court in any matter in which jurisdiction is given to such court by this Act as he would have under the County Courts Act 1934 from any decision of such court in any matter. [1206]

This section replaces s. 189 of the Act of 1930 (23 Statutes 310).

104. Council may demolish buildings.—(1) Where—

(a) a court of summary jurisdiction has made under the London Building Acts or any byelaws made in pursuance of those Acts an order on a person to demolish or remove a building or structure or part of a building or structure or to remedy any matter or thing and the order is not complied with within the time fixed by the order; or

(b) a person has been convicted of an offence against the London Building Acts or any byelaws made in pursuance of those Acts by constructing erecting adapting extending raising altering uniting separating or retaining a building or structure or any part of a building or structure in contravention of any provision of those Acts or byelaws and the Council have given fourteen days' notice to that person to bring the building or structure or part of the building or structure as the case may be into conformity with the said provision and such notice is not complied with;

the Council may notwithstanding the imposition and recovery of any fine make complaint thereof before a court of summary jurisdiction.

[1207]

(2) The court may thereupon issue a summons requiring the person in default to appear to answer the complaint and if the complaint is proved to the satisfaction of the court the court may make an order authorising the Council and thereupon it shall be lawful for the Council—

(a) to enter the building or structure or the curtilage thereof and to demolish or alter the building or structure or any part thereof so far as the building or structure or part has been adjudged to be in contravention of the provisions of the London Building Acts or any byelaws made in pursuance of those Acts and to do whatever other acts may be necessary for that purpose; and

(b) to remove the materials. [1208]

(3) The foregoing provisions of this section shall not apply as respects any order made by a court under subsection (1) of section 64

(Proceedings to enforce compliance with notice) and section 65 (Court may make order notwithstanding arbitration) of this Act. [1209]

(4) Subject to the provisions of subsection (3) of section 106 (Removal and disposal of materials) of this Act all expenses incurred by the Council in the execution of this section or the balance of any such expenses after deducting any proceeds of the sale of materials may be recovered from the person committing the offence. [1210]

(5) If the order of the court or the conviction of any person in respect of any such offence as aforesaid has been obtained by the local authority the local authority may exercise any of the powers of the Council under this section and in such case this section shall apply as if the local authority were referred to therein instead of the Council. [1211]

(6) For the purposes of this section anything projecting from or attached to a building or structure shall be deemed a part thereof and a sky sign shall be deemed a part of the building or structure on over or above which it is placed. [1212]

This section replaces s. 191 of the Act of 1930 (23 Statutes 311).

105. Payment of surplus proceeds into court.—Where by any provision of this Act any surplus of the proceeds of the sale of any building or structure or materials is made payable to any person and no demand is made by him within one year after the receipt of the proceeds by the Council then the surplus shall be paid into the Bank of England (Law Courts Branch) to the account of the Accountant-General for the time being for and on behalf of the Supreme Court of Judicature to be placed to the credit of “ex parte the London County Council London Building Acts 1930 to 1939 the account of” the owner (describing him so far as reasonably practicable) subject to the control of the High Court and to be paid out to the person entitled on his proving his title thereto. [1213]

This section replaces s. 193 of the Act of 1930 (23 Statutes 312).

106. Removal and disposal of materials.—(1) Where the Council or the common council or a local authority are authorised by this Act or by a court in virtue of this Act to remove materials they may remove the materials to some convenient place and sell or otherwise dispose of the same in such manner as they think fit.

(2) All expenses incurred by the Council or the common council or the local authority as the case may be in the execution of this section or the balance of any such expenses after deducting the proceeds of any sale of materials may be recovered from the person against whom proceedings have been taken under section 104 (Council may demolish buildings) of this Act or in the case of dangerous or neglected structures as part of the expenses incurred by the Council in dealing with those structures.

(3) If the proceeds of any sale of materials are more than sufficient to defray any expenses recoverable by them as provided by subsection (2) of this section the Council or the common council or local authority as the case may be after deducting therefrom the amount of any such expenses shall on demand pay the surplus of the proceeds to the person to whom the materials belonged. [1214]

107. Apportionment of expenses &c.—(1) Subject to the provisions of this Act any person who as respects any premises has—

- (a) paid any expenses or fees which by or in pursuance of any provision of the London Building Acts or of any byelaws made in pursuance of those Acts are required to be borne or paid by or may be recovered from him ; or
- (b) paid or incurred the expenses of executing any work which he is required to execute under or in pursuance of any provision of Part V (Means of escape in case of fire) of this Act or under any byelaws made in pursuance of the London Building Acts relating to means of escape in case of fire ;

may apply to the county court of the district in which the premises are situate and the court may thereupon issue a summons requiring the several persons entitled to any estate or interest in the premises to appear before the court and the court may make such order concerning those expenses or fees or their apportionment among the several persons entitled to any estate or interest in the premises as appears to the court to be just and equitable in the circumstances of the case regard being had to the terms of any lease or contract affecting the premises.

(2) (a) Nothing in this section shall prevent the making of an agreement by all the persons or a majority of the several persons entitled to any estate or interest in the premises for referring to arbitration under the Arbitration Acts 1889 to 1934 any matter which under this section may be determined by an order of the county court.

(b) If any such matter is so referred by a majority of the several persons entitled to any estate or interest in the premises the arbitrator shall before making any award in the matter direct that such notices whether by way of advertisement or otherwise shall be given to such other of the persons entitled to any estate or interest in the premises as are not parties to the agreement referred to in paragraph (a) of this subsection as the arbitrator thinks fit and any such other person to whom a notice is so given shall be deemed to be a party to the reference.

(c) Any award made in pursuance of this subsection shall be binding on all persons who are or are deemed to be parties to the reference.

[1215]

108. Removal of roof not to affect proceedings.—Proceedings with respect to a building or structure shall not be affected by the removal or falling in of any roof or covering thereof. [1216]

Tribunal of appeal

109. Constitution &c. of tribunal of appeal.—(1) For the purposes of the London Building Acts a tribunal of appeal shall be constituted in accordance with the following provisions :—

- (a) A panel of fit persons (not being members or officers of the Council) shall be formed and such panel shall consist of six persons one person being nominated by each of the following :—

- The Secretary of State ;
- The Royal Institute of British Architects ;
- The Chartered Surveyors' Institution ;
- The Institution of Civil Engineers ;
- The Institution of Structural Engineers ; and
- The London Master Builders' Association ;

- (b) The person to be nominated by the Secretary of State shall be a barrister or a solicitor ;

- (c) The persons to be nominated as aforesaid shall be nominated to the panel for a period of three years ;
- (d) The persons on the panel shall appoint one of their number who shall in respect of each appeal to be heard and determined by the tribunal of appeal select from the panel three persons (one of whom shall be the person nominated by the Secretary of State) to hear and determine the appeal and the three persons so selected shall for the purposes of that appeal constitute the tribunal of appeal :

Provided that if any party to the appeal makes a requirement that any one or more of the remaining persons on the panel shall also act as a member or members of the tribunal for the purposes of that appeal and deposits with the tribunal such sum as may be fixed by the person so appointed as sufficient to cover any additional expense of the tribunal consequent on such requirement such person or persons shall so act and the constitution of the tribunal for the purpose of that appeal shall be varied accordingly ;

- (e) For all purposes other than the hearing and determination of appeals the whole number of the persons on the panel shall constitute the tribunal of appeal ;
- (f) The person nominated by the Secretary of State shall preside at all meetings of the tribunal of appeal and at the hearing of any appeal by the tribunal of appeal ;
- (g) Any matter considered by the tribunal of appeal shall be decided by a majority of the votes of the members of the tribunal considering the matter and if there is an equality of votes the president of the tribunal shall have a second or a casting vote ;
- (h) The Secretary of State and the bodies mentioned in paragraph (a) of this subsection shall at the same time as they nominate persons in pursuance of that paragraph and thereafter whenever necessary nominate some other fit and proper person to act as deputy upon the resignation or death or during the temporary absence through illness or other unavoidable cause of any person so nominated and the provisions of this section shall apply to those deputies when so acting as if they were persons on the panel referred to in paragraph (a) of this subsection ;
- (i) The Lord Chancellor may if he thinks fit remove for inability or misbehaviour or other good and sufficient cause any person nominated to the panel or the deputy for such panel ;
- (j) Any person nominated to the panel and the deputy for such person shall be eligible for re-nomination. [1217]

(2) Each person acting as a member of the tribunal of appeal shall be entitled to such remuneration by way of annual salary or of fees or of both as the Secretary of State may from time to time fix. [1218]

This section replaces ss. 196 to 200 of the Act of 1930 (23 Statutes 313).

110. Appointment of officers &c. of tribunal of appeal.—(1) The tribunal of appeal may appoint to such positions in their service as may be approved by the Secretary of State such clerks officers and servants as they find necessary who shall be paid such salaries as may be determined by the Council. [1219]

(2) Any person appointed as aforesaid shall cease to hold his office

or employment on attaining the age of sixty-five years or on becoming (in the opinion of the tribunal of appeal) before that age permanently incapable of discharging the duties of his office or employment with efficiency by reason of infirmity of mind or body :

Provided that—

- (a) if the tribunal of appeal decide that the vacation of his office or employment on the ground of his attaining the age of sixty-five years would prejudicially affect the discharge of the functions of the tribunal of appeal such person may continue in his office or employment for a further period not exceeding one year after he has attained the age of sixty-five years and so on for such further periods not exceeding in each case one year as the tribunal of appeal may decide ; and
- (b) the tribunal of appeal may by notice in writing given either before or after he has attained the age of sixty years and has completed an aggregate period of service of forty years with the tribunal of appeal require such person to vacate his office at any time (not being less than three months after the giving to him of such notice) after he has attained the said age of sixty years and has completed the said period of service of forty years and he shall comply with any such requirement. [1220]

(3) The Council may on such terms and conditions as they deem expedient confer upon any person appointed as aforesaid superannuation and other benefits similar to those conferred by any scheme made in pursuance of Part IV (Superannuation, etc.) of the London Council (General Powers) Act, 1891. [1221]

(4) For the purpose of giving effect to subsection (3) of this section the Council may make such annual or other payments to or out of the superannuation and provident fund established in pursuance of the said Part IV as they may think fit and may make a new scheme or amend any scheme so made or any existing scheme made under the said Part and that Part shall subject to the provisions of this section apply in all respects to such new or amended scheme. [1222]

(5) The person who held the office of clerk of the tribunal of appeal constituted in accordance with the provisions of the Act of 1930 shall be the clerk of the tribunal of appeal constituted under this Act and shall continue to hold his office subject to the same conditions as to tenure as before the commencement of this Act and nothing in subsection (1) of this section requiring the approval of the Secretary of State to an appointment by the tribunal of appeal shall prejudice or affect the appointment of such person but subject as aforesaid the provisions of this section shall apply to him as if he had been appointed after that date. [1223]

(6) Any clerks officers or servants of the Council may by agreement between the Council and the tribunal of appeal be employed temporarily as officers or servants of the tribunal of appeal and when a person is so employed he shall for purposes of superannuation or any other rights attaching to his employment by the Council be deemed still to be employed by them :

Provided that this subsection shall not apply to employment as the clerk or as deputy to the clerk to the tribunal of appeal. [1224]

This section replaces s. 201 of the Act of 1930 (23 Statutes 314).

111. Sittings and offices of tribunal of appeal.—(1) The tribunal of appeal shall sit at the County Hall unless accommodation is not available thereat and shall unless there is no appeal to be determined by them sit to hear and determine appeals not less frequently than once in each month.

(2) Such office accommodation as may be necessary for the purposes of the tribunal of appeal shall be provided by the Council :

Provided that nothing in this subsection shall prejudice the continuance of any arrangements for office accommodation entered into by the tribunal of appeal constituted under the Act of 1930 before the passing of this Act or with the consent of the Council between the passing of this Act and the commencement thereof until the termination of such arrangements. [1225]

112. Professional advice &c. for tribunal of appeal.—The tribunal of appeal may obtain such professional advice and assistance as they may find necessary. [1226]

113. Register and publication of decisions of tribunal of appeal.—(1) The tribunal of appeal shall keep a register of their decisions on appeals under the London Building Acts or any byelaws made in pursuance of those Acts and the register shall be kept at the County Hall and shall at all reasonable hours be open to public inspection without payment.

(2) The Council may if they deem it expedient so to do publish in any manner they think fit any of the decisions of the tribunal of appeal on appeals under the London Building Acts or any byelaws made in pursuance of those Acts. [1227]

114. Power for Council to support decisions before tribunal of appeal.—The Council may defray the expenses of supporting before the tribunal of appeal by counsel solicitor or agent and witnesses any decision of the Council or of the superintending architect or of their engineer or of a district surveyor. [1228]

This section replaces s. 202 of the Act of 1930 (23 Statutes 314).

115. Jurisdiction of tribunal of appeal.—(1) The tribunal of appeal shall subject to the provisions of this Act have jurisdiction and power to hear and determine appeals referred to them under the London Building Acts or any byelaws made in pursuance of those Acts.

(2) For all purposes of and incidental to the hearing and determination of an appeal the tribunal shall subject to any regulations as to procedure duly made have power to hear the Council and the parties interested either in person or by counsel solicitor or agent as they think fit and to administer oaths and to hear and receive evidence and to require the production of any documents or books and to confirm or reverse or vary any decision and make any such order as they think fit and the costs of any of the parties to the appeal including the Council shall be in the discretion of the tribunal.

(3) (a) If any party to an appeal makes a requirement for an additional member or additional members of the panel to act on the tribunal of appeal in pursuance of the proviso to paragraph (d) of subsection (1) of section 109 (Constitution &c. of tribunal of appeal) of this Act and such additional member or members so acts or act and the tribunal makes at the conclusion of the hearing of the appeal an order that the requirement was unreasonable in the circumstances of the case

so much of the sum deposited in accordance with that proviso as represents the additional expense of the tribunal consequent on such requirement shall be retained by the tribunal and the balance (if any) of the sum so deposited shall be returnable on demand to the party who deposited the sum.

(b) If no such order is made by the tribunal the sum deposited as aforesaid shall be returned on demand to the party who deposited the sum. [1229]

This section replaces s. 204 of the Act of 1930 (23 Statutes 314).

116. Tribunal may state case for opinion of High Court.—(1) The tribunal of appeal may at any stage of the proceedings at the hearing of an appeal to them under the London Building Acts or any byelaws made in pursuance of those Acts state a case for the opinion of the High Court on any question of law involved in any appeal submitted to them.

(2) Any party to an appeal to the tribunal of appeal who desires to question a decision or determination by the tribunal on the ground that it is erroneous in point of law or is in excess of jurisdiction may apply to the tribunal to state a special case setting forth the facts of the appeal and the grounds on which the decision or determination is questioned and if the tribunal decline to state the case may apply to the High Court for an order requiring the case to be stated.

(3) Any such application to the tribunal shall be made in writing and shall be left with or sent by registered post to the clerk of the tribunal within seven clear days after the date of the decision or determination to be questioned and a copy shall be sent by the party so applying to every other party to the appeal.

(4) Upon such an application the case shall be stated by the tribunal within three months after the date of the application.

(5) A case shall be deemed to be stated in accordance with this section if it is signed by every member of the tribunal who constituted the tribunal for the purposes of hearing the appeal or in the event of the death or retirement or incapacity by reason of illness or other unavoidable cause of any of such members if it is signed by the remaining members.

(6) The case shall be set down heard and determined in the manner prescribed by rules of the court made or having effect as if made in pursuance of the Supreme Court of Judicature (Consolidation) Act 1925 as if it were a case stated in pursuance of the Summary Jurisdiction Acts. [1230]

This section replaces s. 203 of the Act of 1930 (23 Statutes 314).

117. Regulations as to procedure and fees.—The tribunal of appeal may subject to the approval of the Lord Chancellor makes regulations consistent with the provisions of this Act as to the procedure to be followed in cases of appeal to the tribunal including the time and notice of appeal and as to fees to be paid by appellants and other parties. [1231]

118. Enforcement of decision of tribunal.—Any order of the tribunal of appeal may be enforced by the High Court as if it had been an order of that court. [1232]

119. Fees and expenses of tribunal.—All fees and sums of money paid to or retained by the tribunal of appeal shall be paid by them to the Council and the salaries or fees payable to members of the tribunal

and the office and establishment expenses of the tribunal and expenses incurred by the tribunal and the Council in reference thereto shall be defrayed by the Council. [1233]

120. Existing tribunal to remain in office temporarily.—The tribunal of appeal constituted under the Act of 1930 shall remain in office and shall be the tribunal of appeal until the tribunal of appeal is constituted in accordance with this Act and thereupon the first-mentioned tribunal of appeal shall be dissolved. [1234]

Notices, &c.

121. Notices &c. to be in writing.—Notices orders and other such documents under the London Building Acts or any byelaws made in pursuance of those Acts shall be in writing. [1235]

122. Authentication of documents.—(1) Subject to the provisions of subsection (2) of this section any notice order or other such document which the Council or a local authority are authorised or required by or under the London Building Acts or any byelaws made in pursuance of those Acts to give make or issue may be signed on behalf of the Council or the local authority by the clerk of the Council or the town clerk or by any other officer of the Council or of the local authority authorised by them in writing to sign documents of the particular kind or the particular document as the case may be.

(2) Except as otherwise expressly provided in the London Building Acts any document being a consent sanction approval disapproval or refusal by the Council for the purposes of the London Building Acts or any byelaws made in pursuance of those Acts or any modification or waiver by the Council of the provisions of those Acts or byelaws shall be signed by the superintending architect.

(3) Any notice order or other such document purporting to bear the signature of the clerk of the Council or of a town clerk or of the superintending architect or of any officer stated therein to be duly authorised by the Council or the local authority to sign such a document or the particular document as the case may be shall be deemed until the contrary is proved to have been duly given made or issued by the authority of the Council or the local authority as the case may be and any such notice order or document may be proved by the production of a copy thereof.

(4) In this section the word "signature" includes a facsimile of a signature by whatever process reproduced. [1236]

123. Service of notices &c. on Council and others.—Any notice order or other document authorised or required by or under the London Building Acts or any byelaws made in pursuance of those Acts to be given delivered or served to or upon the Council the local authority the superintending architect or the district surveyor shall be addressed to the Council the local authority superintending architect or the district surveyor as the case may be and left at or sent by post in a prepaid letter to the office of the Council local authority superintending architect or district surveyor as the case may be. [1237]

124. Service of notices &c. by Council and others.—(1) Subject to the provisions of this section and of section 125 (Service of documents relating to dangerous or neglected structures) of this Act any notice order or other document (in this section referred to as a "document")

authorised or required by or under the London Building Acts or any byelaws made in pursuance of those Acts to be served by or on behalf of the Council or a local authority or by the superintending architect or the district surveyor or any other person on any person shall be deemed to be duly served—

- (a) where the person to be served is a company if the document is addressed to the secretary of the company at its registered office or at its principal office or place of business and is either—
 - (i) sent by post in a prepaid letter ; or
 - (ii) delivered at the registered office or at the principal office or place of business of the company ;
 - (b) where the person to be served is a partnership if the document is addressed to the partnership at their principal place of business identifying them by the name or style under which their business is carried on and is either—
 - (i) sent by post in a prepaid letter ; or
 - (ii) delivered at the said place of business ;
 - (c) where the person to be served is a public body or a corporation society or other body if the document is addressed to the clerk secretary treasurer or other head officer of that body corporation or society at its principal office or (if there is no office) at the premises to which the document relates and is either—
 - (i) sent by post in a prepaid letter ; or
 - (ii) delivered at that office or the premises as the case may be ;
 - (d) where the person to be served is a builder if the document is addressed to the builder at the place of address stated in his building notice (if any) or in default thereof at his office or any one of his principal offices or if a copy of the document is affixed on some conspicuous part of the premises to which it relates ;
 - (e) in any other case if the document is sent by post in a prepaid letter addressed to the person to be served or delivered to that person at his usual or last known residence or place of business in the United Kingdom.
- (2) Any document which is authorised or required to be served on the owner or occupier of any premises may be addressed " the owner " or " the occupier " as the case may be of those premises (naming them) without further name or description and shall be deemed to be duly served—
- (a) if the document so addressed is sent or delivered in accordance with paragraph (e) of subsection (1) of this section ; or
 - (b) if the document so addressed or a copy thereof so addressed is delivered to some person on the premises or where no person is found on the premises to whom it can be delivered is affixed to some conspicuous part of the premises.
- (3) Where a document is served on a partnership in accordance with this section the document shall be deemed to be served on each partner.
- (4) For the purpose of proving the service by post of any document it shall be sufficient to prove that it was properly addressed and was put into the post.

(5) For the purposes of this section a document shall be deemed to be a document which is authorised or required to be served on a person if it is authorised or required to be notified given or transmitted or (in the case of a demand) if it is authorised or required to be made to that person and in this section the expressions "served" and "service" shall be construed accordingly. [1238]

125. Service of documents relating to dangerous or neglected structures.—Section 124 (Service of notices &c. by Council and others) of this Act shall apply to any notice summons order or other such document to be served upon the owner or occupier of a dangerous or neglected structure subject to the following provisions :—

- (a) where the owner of a dangerous or neglected structure and his usual or last known residence are known to the Council the Council shall send a copy of every such notice summons or order by post addressed to that owner at such residence ;
- (b) in cases where a dangerous structure is situate within the city this section shall be read as if the common council were named instead of the Council ;
- (c) in this section the expression "structure" has the meaning assigned to it in Part VII (Dangerous and neglected structures) of this Act. [1239]

126. Information as to ownership of premises.—The Council a local authority or the district surveyor may for the purpose of enabling them or him to perform any functions under the London Building Acts or any byelaws made in pursuance of those Acts require the occupier of any premises and any person who either directly or indirectly receives rent in respect of any premises to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein whether as freeholder mortgagee lessee or otherwise. [1240]

PART XII

MISCELLANEOUS

127. Storage of timber &c.—(1) (a) Subject to the provisions of this section no person shall form a pile stack or store whether on or above the ground of cut or uncut timber or other inflammable material without the consent of the Council as respects premises within the county of London or of the common council as respects premises within the city :

Provided that no consent under this subsection shall be required—

- (i) as respects a pile stack or store of cut or uncut timber where each of the following conditions is and continues to be complied with (that is to say) :—

(A) the pile stack or store do not exceed in content thirty-six thousand cubic feet ; and

(B) the dimensions of the pile stack or store do not exceed thirty feet in height measured from the level of the ground on which the pile stack or store stands and do not exceed forty feet in length or in depth ; and

(c) an unobstructed space not less than three feet in width be left on each side of the pile stack or store ; and

(D) where timber forming the pile stack or store is placed sideways on to and either parallel to or at an angle in a horizontal plane not exceeding forty-five degrees with the line of the nearer boundary of the roadway of the street or part of the street in which the pile stack or store is situate no part of the pile stack or store be less than ten feet from such nearer boundary or nearer to such roadway than the general line of buildings in such street or part of a street if the said general line of buildings is at a greater distance than ten feet from such roadway ;

- (ii) as respects a pile stack or store of other inflammable material if the pile stack or store do not exceed two thousand cubic feet in content or ten feet in height measured from the level of the ground on which the pile stack or store stands.

(b) Except as provided by subsection (7) of this section the provisions of this subsection shall not apply to a site on which at the commencement of this Act a pile stack or store of cut or uncut timber lawfully stood. [1241]

(2) (a) No pile stack or store of cut or uncut timber or other inflammable material shall after the commencement of this Act be formed (whether on or above the ground and whether or not the provisions of subsection (1) of this section apply thereto) so as to be nearer to the roadway of a street than the general line of buildings in the street or part of a street in which the pile stack or store is or will be situate.

(b) As respects any pile stack or store of cut or uncut timber or other inflammable material (whether on or above the ground) formed before the commencement of this Act it shall not be lawful to retain such pile stack or store if it is nearer to the roadway of a street than the general line of buildings in the street or in the part thereof nearest to the pile stack or store except in a position wherein such a pile stack or store lawfully stood at the commencement of this Act. [1242]

(3) No cut or uncut timber or other inflammable material shall be piled stacked or stored in the same yard or ground or in any part of the same premises in which any furnace is situate except—

- (i) where the furnace is enclosed in a building or chamber possessing such a degree of resistance to the action of fire as the Council may determine ; or
- (ii) where there is a distance of not less than ten feet between the furnace and the pile stack or store and no inflammable material is placed between the furnace and the pile stack or store. [1243]

(4) No such pile stack or store shall exceed sixty feet in height from the level of the ground. [1244]

(5) There shall not in any such pile stack or store be any room or chamber or space (other than a passage) to be used for any purpose. [1245]

(6) The Council or the common council as the case may be may waive or modify any of the provisions of subsections (2) (3) (4) or (5) of this section as respects any timber yard which existed on the twenty-fifth day of August eighteen hundred and ninety-four. [1246]

(7) Where a site on which there is at the commencement of this Act a pile stack or store of cut or uncut timber or other inflammable material ceases for a period of twelve consecutive months to be used for the

purposes of such a pile stack or store this section shall apply thereto as if it had not previously been so used. [1247]

(8) The provisions of this section shall not apply to a pile stack or store in a building erected in accordance with the provisions of the London Building Acts and any byelaws made in pursuance of those Acts or which is by virtue of sections 149 to 152 inclusive of this Act exempt from the operation of the provisions of the said Acts or byelaws.

[1248]

(9) In and for the purposes of this section the expression " inflammable material " means firewood wooden boxes crates casks and barrels builders' materials waste-paper rags motor-tyres cycle-tyres and other material of a similar character. [1249]

(10) The provisions of this section shall not apply to any railway or canal company or to the Port of London Authority in respect of their Surrey Canal undertaking so far as regards timber or other inflammable material in transit or piled stacked or stored on land occupied by them for the purposes of their undertakings respectively nor to timber or other inflammable material piled stacked or stored in any yard or other premises occupied by the Port of London Authority for the purposes of their dock undertaking or occupied by any dock company for the purposes of their undertaking or to any such yard or premises or to any person piling or stacking or storing timber or other inflammable material therein. [1250]

This section replaces s. 219 of the Act of 1930 (23 Statutes 318).

128. Land left open to form part of highway.—(1) When under or in pursuance of the provisions of the London Building Acts any land adjoining a highway is either left open for the use of the public or unenclosed such land shall as from a date to be determined by the Council and notified to the local authority form for all purposes part of the highway.

(2) No owner of land or premises abutting on any land which in pursuance of this section forms part of the highway shall by reason of the existence of such part of the highway be exempt from any liability for expenses of paving or repair under the Metropolis Management Acts 1855 to 1893 in respect of the remainder of the highway. [1251]

129. Preventing obstruction in streets or ways.—(1) No person not being lawfully authorised so to do shall erect or place or cause to be erected or placed any post rail fence bar obstruction or encroachment whatsoever in upon over or under any street or way and no person not being lawfully authorised so to do shall alter or interfere with any street or way in such a manner as to impede or hinder the traffic for which the street or way was formed or laid out from passing over the street or way.

(2) The local authority at the expiration of two days after giving notice in writing to any person contravening the provisions of this section requiring him to demolish or remove the post rail fence bar obstruction or encroachment or to reinstate or restore the street or way to its former condition (as the case may be) may demolish or remove the post rail fence bar obstruction or encroachment and reinstate or restore the street or way to its former condition and recover the expenses of so doing from such person. [1252]

This section replaces s. 221 of the Act of 1930 (23 Statutes 319).

130. Bridges over highways connecting buildings.—(1) Notwithstanding any provision of this or any other Act it shall not be lawful

without the consent of the Council to construct over any highway a bridge affording communication between buildings.

(2) Before granting any consent under this section the Council shall consult with the local authority.

(3) Without prejudice to the generality of the provisions of section 144 (Power to annex conditions to consents &c.) of this Act it shall be a condition of every consent under this section that the owner of the premises or if the consent is granted to the occupier the occupier shall at the request of the Council and at his own expense remove or alter such bridge in such manner as the Council require in the event of their considering such removal or alteration necessary or desirable in connection with the carrying out of improvements to the street at any time and the decision of the Council that such removal or alteration is necessary or desirable shall be final and conclusive and this condition may be enforced by the Council against the owner and occupier for the time being of the premises. [1253]

131. Projections from buildings in relation to general line of buildings.

—(1) Notwithstanding anything contained in Part III (Lines of building frontage) of the Act of 1930 any of the following projections from a building may extend beyond the general line of buildings in any street part of a street place or row of houses but (except so far as is permitted by this section) not so as to be upon or over the roadway of any street or upon or over any ground which in virtue of any statutory or other obligation has been or is to be left open to the public (in this section referred to as "ground left open") :—

- (a) water pipes and their appurtenances copings window sills string courses cornices facias window dressings and other like architectural decorations :

Provided that cornices may project over the roadway of the street or ground left open but not so as to exceed the least of the following dimensions :—

(i) one-tenth of the distance of the lowest portion of the projection of the cornice from the level of the footway of the street immediately in front of the centre of the face of the building or where there is no footway from the level of the ground before excavation ; or

(ii) one-twentieth of the width of the roadway of any street over or towards which the cornice projects ; or

(iii) five feet ;

- (b) pilasters porticos porches balconies verandahs balustrades and outside landings extending not more than three feet beyond the external wall from which they project :

Provided that no part of any portico or porch projecting from the external wall of a building shall be more than three feet above the ground storey ;

- (c) outside steps leading to any entrance to a building if the steps are not more than four feet in height measured from the level of the footway of the street in front of the centre of the face of the building or of the ground immediately in front of the lowest step (whichever be the higher) to the top of the parapet wall of such steps or where there is no such parapet wall to the top of the steps and if the steps are constructed in accordance with the provisions of the London Building Acts and of any byelaws made in pursuance of those Acts ;

- (d) shop fronts (including any cornice and any pier or corbel in connection with the shop front):

Provided that—

(i) if the shop front is situate in a street of a width of not more than thirty feet the shop front (including any pier in connection therewith) shall not project more than five inches and the cornice and corbel thereof shall not project more than thirteen inches from the building;

(ii) if the shop front is situate in a street of a width of more than thirty feet the shop front (including any pier in connection therewith) shall not project more than ten inches and the cornice and corbel thereof shall not project more than eighteen inches from the building;

(iii) the cornice and corbel of the shop front may project to an extent not greater than is mentioned in the foregoing paragraphs of this proviso over the roadway of the street or over any ground left open;

- (e) bay windows to a dwelling-house which is so situate in a street that the front wall of the dwelling-house is distant not less than forty feet from the opposite boundary of the street:

Provided that no such bay window shall—

(i) project more than three feet beyond the external wall of the building to which it belongs; or

(ii) project in any part nearer to the centre of the roadway of the street than the prescribed distance; or

(iii) be used for purposes of trade;

- (f) oriel windows or turrets to a building which is so situate in a street that the front wall of the building is distant not less than forty feet from the opposite boundary of the street:

Provided that any such oriel window or turret may project to an extent not greater than twelve inches over the roadway of any street or over any ground left open but no such oriel window or turret shall—

(i) project more than three feet beyond the external wall of the building to which it belongs;

(ii) be in any part less than ten feet measured from directly beneath the centre of the face of the oriel window or turret above the level of the footway of the street immediately in front of the building or if there is no such footway the level of the ground before excavation;

(iii) be constructed otherwise than to the satisfaction of the district surveyor.

(2) Where on any frontage of a building there are bay windows oriel windows turrets pilasters verandahs balustrades outside landings or other architectural decorations projecting beyond the general line of buildings in the street part of a street place or row of houses in which the building is situate the width in the aggregate of all such projections (excluding porches porticos and balconies) beyond the said general line of buildings shall not on any storey of the building exceed three-fifths of the width of the building on that frontage.

(3) Except in so far as is permitted by this section no projection from any building shall extend beyond the general line of buildings in any street part of a street place or row of houses unless the Council after consultation with the local authority otherwise consent.

(4) This section shall not apply to a projection which being a sign does not form an integral part of the building. [1254]

132. Buildings of architectural or historic interest.—If any portion of a building of architectural or historic interest constructed otherwise than in accordance with the provisions of the London Building Acts or of any byelaws made in pursuance of those Acts is taken down or destroyed such portion may with the consent of the Council be restored in the material and in the design in which it was constructed before being taken down or destroyed. [1255]

This section replaces s. 213 of the Act of 1930 (23 Statutes 317).

133. Maintenance of means of escape &c.—(1) All arrangements and safeguards for lessening danger from fire provided in pursuance of the provisions of the London Building Acts or of any byelaws made in pursuance of those Acts shall be kept and maintained in good condition and repair and in efficient working order by the owner of the building and no person shall do or permit or suffer to be done anything to impair the efficiency of any such safeguards or arrangements.

(2) All means of escape in case of fire and all safeguards to prevent the spread of fire and any arrangements in connection therewith provided in pursuance of the provisions of Part V (Means of escape in case of fire) of this Act or otherwise shall be kept and maintained in good condition and repair and in efficient working order by the owner of the building and no person shall do or permit or suffer to be done anything to impair the efficiency of any such means of escape safeguards or arrangements :

Provided that the provisions of this subsection shall not apply to buildings or parts of buildings exempted by the provisions of section 150 (Buildings exempt from Part V &c.) of this Act except as respects any old building referred to in paragraph (k) of that section which was a new building within the meaning of section 95 (Interpretation for Part VIII of Act) of the Act of 1930.

(3) In relation to any particular building or part of a building the Council may dispense with the requirements of this section as respects any arrangement or safeguard for lessening danger from fire or any means of escape in case of fire or any safeguard to prevent the spread of fire or any arrangement in connection therewith in the event of any circumstances in or affecting that building or part of a building or the use to which that building or part of a building is put rendering unnecessary the keeping and maintaining of such arrangement safeguard or means of escape. [1256]

134. Buildings not to be altered so as not to conform to Act or bye-laws.—No person shall without the consent of the Council make any alteration of any building in such manner that when so altered it will by reason of the alteration not comply with the London Building Acts or with any byelaws made in pursuance of those Acts. [1257]

135. Additions and alterations to buildings or structures.—Every addition to or alteration of a building or structure and every other work made or done for any purpose in to or upon a building or structure (except necessary repair not affecting the stability or construction of the building or structure or any part of the building or structure) shall be subject to the provisions of the London Building Acts and of any byelaws made in pursuance of those Acts. [1258]

136. Buildings partially destroyed &c. or spaces roofed over to be buildings or structures.—(1) Except as otherwise expressly provided by the London Building Acts where after the commencement of this Act—

- (a) any building has been destroyed by fire or other casualty or demolished pulled down or removed from any other cause to an extent exceeding one-half of the aggregate of the superficial areas of the enclosures (excluding party walls) and of the roof and of the floors of the building and is reconstructed or begun to be reconstructed wholly or partly on the same site; or
- (b) any open space between walls or buildings is roofed over or begun to be roofed over;

the whole of the building so reconstructed or begun to be reconstructed or the whole of the open space roofed over or begun to be roofed over as the case may be shall (subject to the provisions of section 138 (Party walls &c. to be taken down for rebuilding) of this Act) be deemed to be a building or structure erected after the commencement of this Act.

(2) For the purposes of this section the superficial area of the roof of the building shall be taken if there is only one roof to the building as the superficies of a horizontal section of the building or if there is more than one roof to the building the aggregate of the superficies of a horizontal section of each of the respective parts of the building of which the roofs form the covering. [1259]

137. Application of sections 134, 135 and 136 of Act.—The provisions of section 134 (Buildings not to be altered so as not to conform to Act or byelaws) section 135 (Additions and alterations to buildings or structures) and section 136 (Buildings partially destroyed &c. or spaces roofed over to be buildings or structures) of this Act shall not apply to any building structure or work referred to in section 149 (Buildings exempt from provisions of Parts III and IV &c.) of this Act if and so far as such building structure or work is by virtue of the said section 149 exempt from the operation of the provisions of the London Building Acts or of any byelaws made in pursuance of those Acts:

Provided that the provisions of this section shall not operate so as to preserve any exemption referred to in the said section 149 if the building or structure so altered added to or reconstructed or the work made or done would not be so exempt. [1260]

138. Party walls &c. to be taken down for rebuilding.—Where a party wall or external wall which does not comply with the provisions of the London Building Acts or any byelaws made in pursuance of those Acts is destroyed by fire or other casualty or demolished pulled down or removed from any other cause to an extent exceeding one-half of its elevational area every remaining portion of that party wall or external wall which does not comply shall unless the Council otherwise consent either be made to comply with such provisions or be taken down before the rebuilding of such wall:

Provided that the provisions of this section shall not apply to any party wall separating buildings which are or to any external wall which is by virtue of section 149 (Buildings exempt from provisions of Parts III and IV &c.) of this Act exempt from the operation of the provisions of the London Building Acts or of any byelaws made in pursuance of those Acts. [1261]

139. Rules for conversion of buildings.—(1) No person shall without the consent of the Council convert a building or structure or part of a building or structure in such manner that the building or structure or part of the building or structure will after being so converted not comply with such of the provisions of the London Building Acts or of any by-laws made in pursuance of those Acts as may be applicable to the building or structure or part thereof as so converted.

(2) For the purposes of this section the expression “convert” includes a change of user whether or not involving any structural alteration. [1262]

140. Amendment of section 45 of Act of 1930.—Section 45 (Open space to be provided about certain buildings not abutting on a street) of the Act of 1930 shall be read and have effect as if “six weeks” were submitted for “one month” wherever that expression occurs in the section. [1263]

141. Power of owner and others to enter premises and execute work.—(1) Notwithstanding any provision contained or implied in any lease or contract it shall be lawful—

- (a) for the owner of a building or structure to enter the building or structure or the curtilage thereof for the purpose of carrying out any work or providing any safeguard required to be carried out or provided by him in virtue of any of the provisions of Part V (Means of escape in case of fire) of this Act or for the purpose of maintaining in pursuance of section 133 (Maintenance of means of escape &c.) of this Act all means of escape in case of fire and all safeguards for lessening danger from fire and any arrangements in connection therewith;
- (b) for a person on whom a notice has been served or to whom an order has been directed under the London Building Acts or any by-laws made in pursuance of those Acts upon production of the said notice or order to enter any building structure room or place which it is necessary for him to enter for the purpose of complying with the said notice or order;
- (c) for a person who has entered any premises in virtue of this section to do therein or thereon all such things as are reasonably necessary for effecting the purpose of such entry.

(2) Any entry upon premises which is authorised by this section may be made by the person so authorised or by his agent either of whom may be accompanied by necessary assistants or workmen but entry to any premises not being a factory or workplace is not to be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier of such premises.

(3) In this section the expression “owner” in relation to any requirement in virtue of any of the provisions of Part V (Means of escape in case of fire) of this Act has the same meaning as in that Part of this Act. [1264]

142. Power of Council and others to enter buildings &c.—(1) A power of entry upon any premises or to execute any act given to the Council or the common council or a local authority by the London Building Acts or by an order of any court made in pursuance of those Acts may be exercised by an officer authorised generally or specially by the body to which the power is given.

(2) (a) For the purposes of the London Building Acts or any by-laws

made in pursuance of those Acts the superintending architect the district surveyor or any authorised officer of the Council may (on producing if so required some duly authenticated document showing his authority) at all reasonable times enter upon inspect and examine any land premises building structure or work to which the provisions of those Acts or byelaws apply or which he has reasonable cause to believe is affected by the provisions of those Acts or byelaws and may do all such things as are reasonably necessary for the purposes of such entry.

(b) As respects any matter referred to in the London Building Acts or any byelaws or regulations made in pursuance of those Acts for the execution or administration of which the common council or the local authority are responsible paragraph (a) of this subsection shall apply as if an authorised officer of the common council or the local authority as the case may be were mentioned therein instead of an authorised officer of the Council.

(3) The district surveyor or any authorised officer of the Council may (on producing if so required some duly authenticated document showing his authority) at all reasonable times and after reasonable notice enter any premises for the purpose of ascertaining whether any exemption from any of the provisions of the London Building Acts or any byelaws made in pursuance of those Acts is applicable and may do all such things as are reasonably necessary for the said purpose.

(4) The superintending architect a district surveyor or an authorised officer entering any premises by virtue of this section may be accompanied by necessary assistants or workmen.

(5) If any person who in pursuance of this section is admitted into a factory or workplace discloses to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret he shall unless such disclosure was made in the performance of his duty be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.

(6) In the exercise at or upon any railway premises of the powers conferred upon him by this section any person referred to in this section shall conform to such reasonable requirements of the railway company owning or using such premises as are necessary to prevent the working of the traffic thereat being obstructed or interfered with and the railway company shall not be liable for any accident or injury which may happen to any such person as aforesaid while upon any lines of rails of the railway company or any land immediately adjoining any such lines of rails.

(7) In this section the expressions "district surveyor" and "structure" have for the purposes of Part VII (Dangerous and neglected structures) of this Act the same meaning as in that Part of this Act.

(8) Nothing in this section shall apply to any building or structure or part of a building or structure referred to in subparagraph (i) of paragraph (j) of section 149 (Buildings exempt from provisions of Parts III and IV &c.) of this Act if and so far as such building or structure or part thereof is by virtue of the said section 149 exempt from the operation of the provisions of the London Building Acts or of any byelaws made in pursuance of those Acts. [1265]

143. Consent &c. on behalf of owners not to be found.—Where in pursuance of the London Building Acts or of any byelaws made in pursuance of those Acts any consent is required to be given any notice is required to be served or any other thing is required to be done by

to or on any owner then if there is no owner or if any such owner cannot be found a county court may on such terms and conditions as the court thinks fit give the consent or do the thing or cause it to be done and may dispense with any notice which would otherwise be required to be served. [1266]

144. Power to annex conditions to consents &c.—(1) Subject to the provisions of Part II (Formation and widening of streets) and of section 45 (Open space to be provided about certain buildings not abutting on a street) of the Act of 1930 in any case where the Council have power in virtue of the London Building Acts or of any byelaws made in pursuance of those Acts to grant their consent to the doing or omission of any act or thing the Council may give their consent subject to such terms and conditions in relation to the subject matter of such consent as the Council think fit and any such terms and conditions may include conditions applying to any building or structure or land other than that in respect of which the consent is given.

(2) Any term or condition subject to which any consent to the doing or omission of any act or thing is given in virtue of the London Building Acts or any byelaws made in pursuance of those Acts shall when accepted be binding on the owner and occupier of the building or structure or land to which the term or condition applies and if at any time any such term or condition is not observed or fulfilled the owner or occupier in default shall be liable to a fine as provided by those Acts.

(3) If under any condition subject to which any consent is given in virtue of the London Building Acts or any byelaws made in pursuance of those Acts any building structure work or thing is permitted to be retained for a limited period and is to be removed at the expiration of that period and the building structure work or thing is not removed at the expiration of that period the Council may serve a notice on the owner or occupier of the building or structure or of the land on which the work or thing is situate requiring him to remove it within a reasonable time to be specified in the notice.

(4) Where any person has failed to comply with any notice duly served on him in pursuance of subsection (3) of this section the court before whom proceedings in respect of the contravention or non-compliance are taken may notwithstanding the imposition of any fine and without prejudice to any other powers conferred on the court by this or any other Act make an order directing the said person to remove the building structure work or thing or any part thereof within a period specified in the order.

(5) Where any provision of the London Building Acts or of any byelaws made in pursuance of those Acts is administered by the common council or the local authority this section shall have effect as if the common council or the local authority as the case may be were named therein instead of the Council.

(6) In this section the expression "consent to the doing or omission of any act or thing" includes the sanction licence approval permission or allowance to the doing or omission of any act or thing or the modification waiver dispensation or relaxation of any of the provisions of the London Building Acts or of any byelaws made in pursuance of those Acts or the exemption from the application of the provisions of those Acts. [1267]

145. Regulations as to submission of plans &c.—(1) The Council may make regulations with respect to the plans elevations sections or

relevant particulars to be submitted in any case in which under the London Building Acts or any byelaws made in pursuance of those Acts—

- (a) the sanction consent licence approval permission or allowance of the Council or a metropolitan borough council is required ;
- (b) application may be made to the Council for the modification waiver dispensation or relaxation of or exemption from any requirement of the London Building Acts or of any byelaws made in pursuance of those Acts ;

and such regulations may include provisions as to the time and manner of making applications to the Council or such local authorities and for the purposes of Part IV (Special and temporary buildings and structures) of this Act as to the expenses to be incurred and paid to the Council or a metropolitan borough council as the case may be and any other matter connected therewith.

(2) Before making any regulations under this section with regard to cases in which the provisions of the said Acts or byelaws are administered by metropolitan borough councils the Council shall consult such councils.

(3) Any regulations made under this section shall be printed and a copy of any such regulations in force shall be kept at the County Hall and a copy shall be supplied at all reasonable hours without payment to any applicant for the same. [1268]

146. Plans and documents to be property of Council.—Applications plans elevations sections and other documents delivered at the offices of the Council or to the district surveyor under the London Building Acts or any byelaws made in pursuance of those Acts or any regulations authorised by section 145 (Regulations as to submission of plans &c.) of this Act shall on being so delivered become the property of the Council. [1269]

147. Power to Council to act in default of metropolitan borough council.—The Council on proof to their satisfaction that a metropolitan borough council have made default in the institution of any proceedings of the doing of any other act necessary for the enforcement or execution of the London Building Acts or any byelaws or regulations made in pursuance of those Acts may institute any proceedings and do any act which the metropolitan borough council might have instituted or done for that purpose and may recover from the metropolitan borough council all such expenses as are incurred by the Council in so doing which are not recovered from any other person and have not been incurred in any unsuccessful proceeding. [1270]

Offences against Act

148. Offences against Act.—(1) Subject to the provisions of this Act each of the acts or omissions specified in the first column of the tables set out in this section shall be an offence against this Act. [1271]

(2) A person who commits any such offence as is set out in the following table shall on summary conviction be liable to a fine not exceeding the amount set out in the second column opposite to the offence and if the act or omission constituting any offence or the result of any such act or omission continues after the original conviction therefor he shall be liable to a further fine not exceeding the amount similarly set out in the third column for each day on which such act or omission or the result of any such act or omission so continues :—

Offence.	Fine.	Fine for each day.
(i) To form or lay out alter or adapt any street or way or begin to do so without having first obtained the sanction of the Council or the tribunal of appeal as the case may be under Part II (Formation and widening of streets) of the Act of 1930 or otherwise than in accordance with the conditions (if any) imposed by the Council or by the tribunal of appeal as the case may be in giving their sanctions or to widen or begin to widen any street or way to a less extent than the prescribed distance without giving to the Council the required notice	£	£
(ii) To neglect or refuse for twenty-eight days after the service of any notice under section 14 (Notice to set back buildings) of the Act of 1930 requiring him to set back any building structure fence or boundary to comply with the requirements of that notice or to fail after the expiration of that period to carry out or complete the works necessary for compliance within the time (if any) limited in that notice	100	5
(iii) To erect or bring forward any building or structure in contravention of any of the provisions of Part III (Lines of building frontage) of the Act of 1930 or of any conditions attached by the Council to any consent given in pursuance of those provisions	10	2
(iv) To establish or carry on a dangerous or noxious business in contravention of any of the provisions of Part XI (Dangerous and noxious businesses) of the Act of 1930	5	—
(v) To fail to comply with any condition imposed by the Council under subsection (3) of section 143 (Regulations for building near dangerous business) of the Act of 1930	50	10
(vi) To erect a building nearer than fifty feet to a building used for any dangerous business or a dwelling-house nearer than fifty feet to a building used for any noxious business	50	10
(vii) To erect or adapt or begin to erect or adapt otherwise than in accordance with Part XII (Dwelling-houses on low-lying land) of the Act of 1930 any building to which that Part applies	50	10
(viii) To contravene or fail to comply with any of the provisions of section 10 (Wrongful setting up of names of streets &c.) or section 13 (Offences as to numbering or naming of buildings) of this Act	5	1
(ix) To fail to comply with any term or condition imposed by the Council in giving any consent under section 20 (Precautions against fire in certain buildings and cubical extent of buildings) maintain in an efficient condition any door sliding door shutter style rail bolt or other fastening as required thereunder	50	10
(x) To permit to be used as such any public building the construction of which has not been approved by the district surveyor or the tribunal of appeal as the case may be or which does not comply with section 26 (Construction of public buildings) of this Act or to convert any building into a public building otherwise than in accordance with section 27 (Conversion of buildings into public buildings) of this Act	50	10
(xi) To act without statutory authority in any manner so as injuriously to affect the structural stability of or the protection from the action of fire in any building or structure or part of a building or structure	5	1
(xii) To set up erect or retain any building or structure to which the provisions of Part IV (Special and temporary buildings and structures) of this Act applies without having obtained the consent required by that Part	5	—
(xiii) To occupy or permit to be occupied or to let for occupation any part of any building in contravention of the provisions of section 34 (Protection against fire in certain new buildings) of this Act	20	5
(xiv) To fail to comply with any requirement made by the Council under section 35 (Protection against fire in certain old buildings) of this Act and (in the event of an appeal) confirmed or varied by the tribunal of appeal within such time as may be required by the Council or the tribunal of appeal as the case may be	20	5
(xv) To fail to execute and do with all practicable dispatch after acceptance by the Council of any alternative proposals under section 35 (Protection against fire in certain old buildings) of this Act for the provisions of means of escape in case of fire all such works and things as may be necessary to provide the means of escape specified in such alternative proposals	20	5

Offence	Fine.	Fine for each day.
(xvi) To occupy or permit to be occupied any part of or storey in a building after the making of an order of a court of summary jurisdiction under section 35 (Protection against fire in certain old buildings) of this Act prohibiting the occupation of such part of or such storey in such building unless that order has been discharged as in that section provided - -	£	£
(xvii) To fail to deposit or cause to be deposited at or within the time at or within which the same are by the respective provisions relating thereto required to be deposited any notice or plans sections and elevations required to be deposited under Part V (Means of escape in case of fire) of this Act - -	20	5
(xviii) Otherwise to contravene or fail to comply with any provision of Part V (Means of escape in case of fire) of this Act or with any requirement lawfully made in pursuance thereof	20	5
(xix) Being a building owner liable under Part VI (Rights &c. of building and adjoining owners) of this Act for the making good of any damage which he may occasion to the property of an adjoining owner or adjoining occupier by any works authorised to be executed by the building owner or for the doing of any other thing upon condition of doing which his right to execute any such works is by the said Part VI declared to arise to fail within a reasonable time to make good that damage or to do that thing - - - - -	20	5
(xx) To fail to comply with an order made by a court in relation to section 70 (Repayment of expenses incurred by Council) of this Act - - - - -	5	1
(xxi) To erect a sky sign or to permit or suffer a sky sign to be erected or to retain a sky sign - - - - -	20	5
(xxii) Being a person who is required to serve a building notice to fail so to do or to fail to state in such notice the particulars and information required to be so stated or before serving a building notice to begin to execute a work (other than emergency works referred to in the proviso to section 83 (Service of building notices) of this Act) respecting which such a notice is required or to begin to execute the work to which a building notice relates (other than emergency works as aforesaid) before the expiration of two clear days after the notice has been served on the district surveyor - - - - -	20	5
(xxiii) To fail to give to the district surveyor information in writing of the cost of any addition alteration or other work or to fail to furnish to him such information and evidence with reference to the cost of any addition alteration or other work after being requested so to do by the district surveyor in pursuance of this Act - - - - -	5	—
(xxiv) To fail to comply with a notice of irregularity served upon him - - - - -	5	—
(xxv) Where any materials are sold or otherwise disposed of in pursuance of the London Building Acts to refuse to admit at a reasonable time the purchaser or person authorised to remove them or his servants or agents to the land upon which the materials are situate or to impede him or them in removing the materials from such land at a reasonable time - - - - -	10	5
(xxvi) To fail to give information after having been required to give information in pursuance of section 126 (Information as to ownership of premises) of this Act or knowingly to make any misstatement in respect thereof - - - - -	5	—
(xxvii) To act in any manner in contravention of any of the provisions of section 127 (Storage of timber &c.) of this Act	20	5
(xxviii) To erect or place in upon over or under any street or way any post rail fence bar obstruction or encroachment in contravention of the provisions of section 129 (Preventing obstruction in streets or ways) of this Act or to permit any such post rail fence bar obstruction or encroachment in upon over or under any street or way to remain after notice served upon him by the local authority under that section requiring him to remove it	10	2
(xxix) Unlawfully to alter or interfere with any street in such a manner as to impede or hinder the traffic for which such street was formed or laid out - - - - -	10	2
(xxx) To contravene or fail to comply with the provisions of section 133 (Maintenance of means of escape &c.) of this Act	20	5
(xxxi) To convert or use a building without the consent of the Council in contravention of any of the provisions of section 139 (Rules for conversion of buildings) of this Act - - - - -	20	5

Offence.	Fine.	Fine for each day.
(xxxii) To refuse to admit at a reasonable time any person upon or into any building or its curtilage or any structure room or place for the purpose of (a) carrying out any work or providing any safeguard required to be carried out or provided in virtue of any provision of Part V (Means of escape in case of fire) of this Act (b) maintaining in accordance with the requirements of section 133 (Maintenance of means of escape &c.) of this Act all means of escape in case of fire and all safeguards for lessening danger from fire and any arrangements in connection therewith or (c) complying with any notice served on or order directed to him under the London Building Acts or any byelaws made in pursuance of those Acts in respect of that building structure room or place or to refuse or neglect to afford to him all reasonable assistance in carrying out that work or providing or maintaining that means of escape or safeguard or arrangement or in complying with that notice or executing that order - - - - -	£ 20	£ 5
(xxxiii) To refuse to permit any officer of the Council or of the local authority or the superintending architect or district surveyor or any other authorised person when entitled so to do under the London Building Acts to enter survey inspect or examine any building structure work or premises which such officer superintending architect surveyor or other person is by the London Building Acts authorised to enter survey inspect or examine or to refuse or neglect to afford to him all reasonable facilities and assistance in that survey inspection or examination - - - - -	20	5
(xxxiv) To refuse to admit at a reasonable time a builder to a building for the purpose of complying or otherwise to prevent a builder from complying with any order of a county court made in pursuance of the London Building Acts - - - - -	20	5
(xxxv) To hinder or obstruct any person empowered by the London Building Acts to enter and remain on any premises for the purpose of executing or maintaining and to execute or maintain any work authorised or directed to be done in pursuance of those Acts or wilfully to damage or injure any such work - - - - -	20	5
(xxxvi) Being a workman labourer servant or other person employed in or about any building or structure wilfully and without the privity or consent of the person causing the work to be done to do anything to in upon or about that building in contravention of the provisions of the London Building Acts or of any byelaws made in pursuance of those Acts - - - - -	20	5
(xxxvii) Subject to the provisions of this section and of subsection (8) of section 9 (Modification or waiver of byelaws) of the Act of 1935 to contravene or fail to comply with any term or condition subject to which the consent to the doing or omission of any act or thing within the meaning of section 144 (Power to annex conditions to consents &c.) of this Act has been given under this Act - - - - -	20	5
(xxxviii) To fail to comply with any notice given to or served on him under subsection (3) of section 144 (Power to annex conditions to consents &c.) of this Act - - - - -	5	—
(xxxix) To contravene any provision of the London Building Acts or any requirement made in pursuance thereof for which contravention no fine is otherwise provided in this section -	5	1

[1272]

(3) A person who commits any such offence as is set out in the following table shall on summary conviction be liable to a fine not exceeding the amount set out in the second column opposite to the offence for each day on which the offence continues :—

Offence.	Fine for each day.
(i) To fail to comply with any conditions of a consent of the Council given under Part XII (Dwelling-houses on low-lying land) of the Act of 1930	£ 10
(ii) To fail to comply with an order made by a court in relation to Part III (Lines of building frontage) of the Act of 1930 or subsection (2) of	

Offence.	Fine for each day.
section 7 (Appeals to court of summary jurisdiction) of the Act of 1935 or Part III (Construction of buildings) or Part IV (Special and temporary buildings and structures) of this Act or section 72 (Removal of sky signs) or section 90 (Non-compliance with notice of irregularity) of this Act or subsection (4) of section 144 (Power to annex conditions to consents &c.) of this Act	£
(iii) To occupy or permit to be occupied or to let for occupation any building or part of a building at any time during which the space at the rear of that building required to be provided in pursuance of Part V (Open spaces about buildings and height of buildings) of the Act of 1930 is not so provided	20
(iv) To fail to give notice to the district surveyor in accordance with the requirements of subsection (5) of section 21 (Uniting of buildings) of this Act or to retain without the consent of the Council required by subsection (5) of the said section 21 any opening in a building by which that building was united to another building when they were in one occupation when the building is in more than one occupation	10
(v) To fail to give the notice required by section 153 (Duration of exemption) of this Act of the cessation of exemption or privilege in respect of a building structure or work	2
(vi) To fail to comply with any provision of the London Building Acts or any requirements made in pursuance thereof for which failure no fine is otherwise provided in this section	1
	1

[1273]

(4) Subject to the provisions of section 33 of the Interpretation Act 1889 (which makes provisions as to offences under two or more laws) the liability to the fines in this section mentioned shall be without prejudice to any other proceedings whether under the London Building Acts or under any byelaws made in pursuance of those Acts or otherwise. [1274]

Application of Act

149. Buildings exempt from provisions of Parts III and IV &c.—The following buildings structures and works shall be exempt from the operation of Part III (Construction of buildings) and Part IV (Special and temporary buildings and structures) of this Act and of any byelaws made in pursuance of the London Building Acts with respect to the matters referred to in paragraphs (b) to (e) inclusive and (i) to (n) inclusive and (g) of subsection (1) of section 4 (Power to Council to make byelaws) of the Act of 1935 and in paragraph (d) of section 97 (Additional matters to be dealt with by byelaws) of this Act and in section 98 (Byelaws with respect to construction and conversion of buildings &c.) of this Act :—

- (a) (i) Any wall of an embankment or any retaining wall ; and
(ii) any bridge pier jetty or wharf wall or quay wall any part of which is over or washed by the water of any river stream or dock ; and

(iii) any other bridge carrying a highway :

Provided that without prejudice to any exemption under the following provisions of this section this paragraph shall not apply to any wall forming part of a building ;

- (b) The Mansion House Guildhall Monument and Royal Exchange within the city ;
(c) The offices and buildings of the Bank of England within the city ;
(d) All buildings erected by or with the sanction of the Commissioners for the Exhibition of eighteen hundred and fifty-one on any lands belonging to them and purchased in pursuance

- of any power vested in them by charter or Act and used or occupied for any purposes directly conducive to or connected with the furtherance of the knowledge of science and art and of the application of their principles to productive industry ;
- (e) The sessions house of the Central Criminal Court and all other sessions houses or other public buildings belonging to or occupied for public purposes by the Council or the justices of the peace of the county of London and of the city respectively ;
- (f) All sessions houses or other public buildings belonging to or occupied for public purposes by the justices of the peace of the county of Middlesex or the county council of Middlesex and any other building belonging or leased to the said county council if such building is or is being constructed so as to be occupied and used by the said county council in pursuance or for the purposes of any of their statutory functions including any functions exercised through the standing joint committee of the Middlesex quarter sessions and the said county council or exercised by the justices of the peace of the county of Middlesex ;
- (g) The erections and buildings authorised by an Act passed in the ninth year of the reign of His late Majesty King George the Fourth for the purposes of a market in Covent Garden ;
- (h) (i) The buildings of the Metropolitan Cattle Market and any building within the market premises inhabited or adapted to be inhabited by any official or servant of the corporation for the purposes of that market ;
(ii) The buildings of the Billingsgate Market of the Leadenhall Market of the London Central Markets and of the Spitalfields Market ;
- (i) (i) Any building or structure belonging to a railway company and situate upon a railway or within the railway or station premises if any part of such building or structure is occupied and used by the railway company for the railway purposes of their undertaking or if such building or structure is used exclusively for refreshment rooms for the convenience primarily of passengers using the railway or for the sale of articles reasonably required for the convenience of such passengers ;
(ii) the foundations and walls of buildings belonging to a railway company situate over any station or works of a railway company or immediately adjoining any railway or works of a railway company and upon land acquired under the powers of an Act except (in the case of any such buildings which are not or will not be in the occupation of the railway company) so much of the foundations and walls thereof as do not or will not affect the working of the railway ;
(iii) any building within the station premises of any railway company inhabited or adapted to be inhabited in whole or in part by any official or servant of the railway company ;
- Provided that nothing in this paragraph shall prejudice the operation of subsection (3) of section 21 (Uniting of buildings) of this Act or save as otherwise expressly stated exempt any buildings used for the purpose of human habitation so far as they are so used ;

- (j) (i) Any building or structure or part of a building or structure belonging to the Port of London Authority or to a dock company constituted by Act and situate within the dock premises of the authority or company ;

(ii) any building belonging to the Port of London Authority in their capacity as successors of the conservators of the river Thames if any part of such building is occupied and used by them as a workshop or store ;

(iii) any building belonging to the Port of London Authority in connection with their Surrey Canal undertaking or to a canal company if any part of such building is occupied and used by the authority or company for the purposes of canal works under any Act ;

(iv) any building or structure or part of a building belonging to a gas company and used exclusively for gasworks not being a building or structure or part of a building used as a showroom office staffroom workroom or for any purpose other than gasworks and situate elsewhere than within the curtilage of a gasworks ;

(v) any building or structure belonging or leased to any authorised undertakers (including a joint electricity authority and London Power Company Limited) within the meaning of the Electricity (Supply) Acts 1882 to 1936 authorised to supply electricity in any district in London and exclusively occupied by such undertakers and used by them as an electricity generating station or for works in connection with the generation of electricity within the curtilage of such an electricity generating station or as a distributing or transforming station but the exemption conferred by this subparagraph shall not apply to—

(1) any building or part of a building (not being a building or part of a building within the curtilage of an electricity generating station and exclusively occupied and used by the authorised undertakers for the purposes of their undertaking) used as a showroom office staffroom workroom or for any purpose other than the purposes aforesaid ; or

(2) any building or structure or part of a building which is not within the curtilage of an electricity generating station and which is a building or structure or part of a building to which Part IV (Special and temporary buildings and structures) of this Act applies :

Provided that nothing in subparagraphs (ii) to (v) of this paragraph shall exempt any buildings used for the purpose of human habitation so far as they are so used ;

- (k) Any building not exceeding in area thirty square feet and not exceeding in height five feet in any part measured from the level of the ground to the underside of the eaves or roof plate and distant at least five feet from any other building and from any street and not having therein any stove flue fireplace hot air pipe hot-water pipe or other similar apparatus and not extending in any part beyond the general line of buildings in any street ;
- (l) All buildings (not being public buildings or buildings used for the purpose of human habitation or for trade) not exceeding

in any part ten feet in height measured from the level of the ground to the underside of the eaves or roof plate and—

- (i) of a superficial area not exceeding two hundred square feet and distant at least ten feet from any other buildings and from the land of every adjoining owner; or
- (ii) of a superficial area not exceeding eight hundred square feet and distant at least fifteen feet from any other building and from the land of every adjoining owner;
- (m) All party fence walls and other boundary walls not exceeding six feet in height measured from the level of the ground;
- (n) Greenhouses used as such and not attached to other buildings;
- (o) The necessary wood or metalwork of the sashes doors and frames of greenhouses used as such and attached to other buildings;
- (p) Cases (used solely for holding plants) fastened to the sill or framework of a window if no portion projects over the public way or more than twelve inches beyond the external face of the wall of the building but this exemption shall not authorise contravention of any enactment relating to the ventilation or lighting of the room in which the window is situate;
- (q) Openings made in walls or flues for the purpose of inserting therein ventilating valves or pipes of a superficial extent not greater than forty square inches if the valves or pipes are not nearer than twelve inches to any timber or other combustible material. [1275]

150. Buildings exempt from Part V &c.—The provisions of Part V (Means of escape in case of fire) of this Act and of any byelaws made in pursuance of the London Building Acts with respect to means of escape in case of fire shall not apply to—

- (a) any building the whole of which is subject to the provisions of section 34 of the Factories Act, 1937;
- (b) any building or part of a building belonging to the Port of London Authority or to a dock company constituted by Act and situate within the dock premises of the authority or company;
- (c) any building belonging to the Port of London Authority in connection with their Surrey Canal undertaking if any part of such building is occupied and used by the authority for the purposes of canal works under the Acts regulating that undertaking;
- (d) any building (not being an hotel) belonging or leased to any railway company and situate upon a railway or within the railway or station premises of that or any other railway company if any part of such building is occupied and used by a railway company for the railway purposes of their undertaking or if such building is used exclusively for refreshment rooms for the convenience primarily of passengers using the railway or for the sale of articles reasonably required for the convenience of such passengers;
- (e) the generating stations referred to in section 8 (As to construction of the Company's generating station) of the Metropolitan District Railway Act 1902 and in section 26 (Purchase of land and power to erect and equip generating station) of the London County Council (Tramways and Improvements) Act 1902 respectively;

- (f) any building or part of a building belonging or leased to any authorised undertakers (including a joint electricity authority and London Power Company Limited) within the meaning of the Electricity (Supply) Acts 1882 to 1936 authorised to supply electricity in any district in London and exclusively occupied and used by them as an electricity generating station or for works in connection with the generation of electricity within the curtilage of such an electricity generating station or as a distributing or transforming station but the exemption conferred by this paragraph shall not apply to any building or part of a building used as a showroom office staffroom workroom or for any purpose other than the purposes aforesaid ;
- (g) any building or part of a building belonging or leased to any gas company and used exclusively for gasworks not being a building or part of a building erected after the passing of this Act and used as a showroom office staffroom workroom or for any purpose other than gasworks but the exemption conferred by this paragraph shall not apply to any building or part of a building erected before the passing of this Act and used as last aforesaid if any substantial alteration or addition of a structural character of or to such building or part of a building substantially increasing the risk of fire therein or the difficulty of escaping therefrom in case of fire is made or effected after the passing of this Act ;
- (h) so long as the building is not used otherwise than is mentioned in this paragraph any building used or intended to be used to the extent of not less than three-fourths of its cubical extent as a bank or insurance office or partly for one and partly for the other of such purposes by not more than two companies or firms and used or intended to be used as regards the residue thereof only as a residence for or for providing sleeping accommodation for officers or servants of such companies or firms ;
- (i) the premises known as Staple Inn Holborn ;
- (j) the buildings of the Stock Exchange in the city situated between Throgmorton Street on the north and Threadneedle Street and Old Broad Street on the south or south-east ;
- (k) any old building in the exclusive occupation of a public wharfinger and used by him for the purposes of his business and situate upon or in immediate proximity to a dock wharf quay or riverside frontage and being self-contained and not abutting on any building and not being an uptown warehouse or a building wherein any manufacturing process is carried on or wherein any person sleeps ;
in this paragraph the expression " old building " has the meaning assigned to it by section 33 (Interpretation of Part V) of this Act and the expression " public wharfinger " means the owner lessee or occupier of a wharf quay warehouse or granary adjoining the port of London mainly used for warehousing the goods imported into the port of London of persons other than the occupier of such premises ;
- (l) the buildings and premises known as the Royal Albert Hall ;
- (m) the following buildings so long as they are used for the purposes

for which they were respectively used at the commencement of this Act :—

- (i) the Mansion House Guildhall Monument and Royal Exchange within the city ;
 - (ii) the sessions house of the Central Criminal Court and all public buildings erected or occupied by the corporation under the provisions of the City of London Police Acts ;
 - (iii) the buildings of the Metropolitan Cattle Market of the Billingsgate Market of the Leadenhall Market of the Central Markets and of the Spitalfields Market ;
- (n) any building belonging to the county council of Middlesex the plans of which are approved either expressly or by way of sanction to a loan by a Secretary of State or other Minister of the Crown or by the Board of Control :

Provided that the said county council shall either before or as soon as may be after the submission of the application for the said approval give notice thereof to the Council and the Council shall be entitled within one month after the date of such application or notice (whichever shall be the later) to make representations to the Secretary of State Minister or Board as the case may be with respect to the means of escape from the building to be provided in case of fire ;

- (o) unless and except so far as the Commissioners of Customs and Excise otherwise allow any building or part of a building approved by those commissioners as a warehouse or store for warehousing or depositing goods without payment of duty while used with such approval for any of such purposes.

[1276]

151. Crown exemptions.—(1) There shall be exempted from so much of the London Building Acts and of any byelaws made in pursuance of those Acts as relates to buildings and structures—

- (a) every building structure or work vested in and in the occupation of His Majesty either beneficially or as part of the hereditary revenues of the Crown or in trust for the public service or for public purposes ;
- (b) every building structure or work vested in and in the occupation of any department of His Majesty's Government or of the metropolitan police or of the trustees of the British Museum for the public service or for public purposes ;
- (c) every building structure or work vested in and in the occupation of His Majesty in the right of His Duchy of Lancaster ; and
- (d) every building structure or work vested in and occupied for the service of the Duke of Cornwall for the time being.

(2) Nothing in the provisions relating to means of escape in case of fire of the London Building Acts or of any byelaws made in pursuance of those Acts shall—

- (a) prejudicially affect any estate right power privilege or exemption of His Majesty ; or
- (b) authorise the Council to take use or in any manner interfere with any land hereditaments or rights belonging to or enjoyed by His Majesty in the right of His Crown and being under the management of the Commissioners of Crown Lands except with the consent in writing of those commissioners.

(3) Nothing in the provisions of the London Building Acts relating to means of escape in case of fire or in section 20 (Precautions against fire in certain buildings and cubical extent of buildings) or section 21 (Uniting of buildings) or section 22 (Division walls to be subject to provisions relating to party walls) of this Act shall authorise the Council to take use enter upon or interfere with any land soil or water or any rights in respect thereof belonging to His Majesty in the right of His Duchy of Lancaster except with the consent in writing of the chancellor for the time being of the said duchy (which consent the said chancellor is hereby authorised to give) or take away prejudice or diminish any estate right privilege power or authority vested in or enjoyed by His Majesty in right of His said duchy.

(4) Nothing in the provisions of the London Building Acts relating to means of escape in case of fire or in section 20 (Precautions against fire in certain buildings and cubical extent of buildings) or section 21 (Uniting of buildings) or section 22 (Division walls to be subject to provisions relating to party walls) of this Act shall authorise the Council to take use enter upon or interfere with any land soil or water or any rights in respect thereof belonging to His Majesty in the right of the Duchy of Cornwall except with the consent in writing of at least two of such of the regular officers of the said duchy or of such other persons as are duly authorised under section 39 of the Duchy of Cornwall Management Act 1863 to exercise all or any of the rights powers privileges and authorities by the said Act made exercisable or otherwise for the time being exercisable in relation to the said duchy or belonging to the Duke of Cornwall for the time being without the consent of such duke testified in writing under the seal of the Duchy of Cornwall first had and obtained for that purpose or to take away diminish alter prejudice or affect any property rights profits privileges powers or authorities vested in or enjoyed by His Majesty in right of the Duchy of Cornwall or in or by the Duke of Cornwall for the time being.

(5) So much of section 153 (Duration of exemption) of this Act as relates to the giving of notice of the cessation either of any exemption from the operation of the provisions of the London Building Acts or of any byelaws made in pursuance of those Acts or of any privilege in respect of the said provisions shall not apply to His Majesty the Duke of Cornwall or any department or person referred to in this section.

[1277]

152. Exempting property of Inns of Court.—The lands buildings and property of—

- (a) the Honourable Society of the Inner Temple ;
- (b) the Honourable Society of the Middle Temple ;
- (c) the Honourable Society of Lincoln's Inn ;
- (d) the Honourable Society of Gray's Inn ;

shall be exempt from the provisions of the London Building Acts and of any byelaws made in pursuance of those Acts :

Provided that nothing in this section shall be deemed to exempt—

- (i) any such land building or property which abuts upon any public street public place or public way from the provisions of Part III (Lines of building frontage) of the Act of 1930 ; or
- (ii) any such land building or property from the provisions of section 130 (Bridges over highway connecting buildings) of

this Act so far as they relate to the construction over any public street or public way of a bridge affording communication between buildings. [1278]

153. Duration of exemption.—(1) Any building structure or work in any respect exempt from the operation of the provisions of the London Building Acts or of any byelaws made in pursuance of those Acts or in any manner privileged in respect of any of the said provisions shall remain so exempt or privileged so long only as it is used for the purpose or retains the character by reason whereof it is so exempt or privileged and when such a building structure or work ceases to be so exempt or privileged its owner shall forthwith give notice to the Council of the cessation of the exemption or privilege.

(2) Where the building structure or work is of such a character that if it had been erected or carried out after the commencement of this Act the erection or carrying out would have been governed by provisions of this Act administered by local authorities this section shall have effect as if the local authority were mentioned therein instead of the Council. [1279]

154. Buildings erected before commencement of Act and buildings in progress.—(1) Except as otherwise expressly provided by the London Building Acts a building structure or work erected or constructed before the commencement of this Act or before the coming into operation of any byelaws made in pursuance of the London Building Acts after the commencement of this Act as the case may be in conformity with the provisions of any enactments and byelaws governing the erection or execution of buildings structures or works of a class to which the building structure or works belongs in force at the time of such erection or execution shall (subject to the provisions of the London Building Acts and of any byelaws made in pursuance of those Acts as to the alteration or conversion of buildings) be deemed to be erected or constructed in compliance with the London Building Acts and any byelaws made in pursuance of those Acts.

(2) Notwithstanding anything contained in the London Building Acts a building structure or work begun before and in progress at the commencement of this Act and a building structure or work which is to be erected or constructed under any contract entered into before that date shall unless the Council otherwise consent be completed subject to and in accordance with the provisions of the Acts of 1930 and 1935 and of any byelaws made in pursuance of those Acts and in force at the commencement of this Act.

(3) Notwithstanding anything contained in the London Building Acts a building structure or work begun after the commencement of this Act but before and in progress on the date of the coming into operation of byelaws made in pursuance of those Acts and a building structure or work which is to be erected or constructed under any contract entered into after the commencement of this Act but before the date of the coming into operation of such byelaws shall unless the Council otherwise consent be completed subject to and in accordance with the provisions of the London Building Acts and of any byelaws made in pursuance of those Acts and in force immediately before the date of the coming into operation of the said byelaws.

(4) Nothing in this section shall prejudice the operation of Part V (Means of escape in case of fire) of this Act. [1280]

155. Savings.—(1) Without prejudice to any other exemption conferred by the London Building Acts or any byelaws made in pursuance of those Acts nothing in those Acts or byelaws shall prejudice or affect—

- (a) any of the powers privileges exemptions jurisdictions or authorities vested in the common council as the successors of the commissioners of sewers of the city by or under any Act and existing immediately before the twenty-fifth day of August eighteen hundred and ninety-four; or
 - (b) the powers of local authorities with respect to the paving of new streets under the Metropolis Management Acts or their powers to widen alter or improve any street; or
 - (c) except as respects Part V (Means of escape in case of fire) of this Act any of the powers rights or privileges conferred upon a gas company by any Act and existing immediately before the twenty-fifth day of August eighteen hundred and ninety-four; or
 - (d) any exemption or right which would but for the passing of the Act of 1930 and this Act have been enjoyed under section 21 (Exempting certain school board buildings) of the London Building Act 1894.
- (2) Nothing in the London Building Acts or any byelaws made in pursuance of those Acts shall prejudice or affect—

- (a) any of the provisions of the Public Health (London) Act 1936 relating to underground rooms; or
- (b) the operation of section 64 (Power of London County Council to transfer or delegate functions to metropolitan borough councils) of the Local Government Act 1929; or
- (c) the operation or derogation from any of the provisions of the Town and Country Planning Act 1932 or any scheme or order for the time being in force under that Act or under any Act repealed by that Act. [1281]

156. Payments by Council and local authorities.—(1) All costs and expenses of the Council in the execution of the London Building Acts and of any byelaws made in pursuance of those Acts shall be defrayed as payments for general or special county purposes within the meaning of the Local Government Act 1888 as they may decide and the costs charges and expenses preliminary to and of and incidental to the preparing applying for and obtaining of this Act shall be defrayed by them in like manner.

(2) All costs and expenses of the common council in or in connection with the execution of any of the provisions of the London Building Acts or of any byelaws made in pursuance of those Acts shall except as otherwise expressly provided be defrayed out of the general rate of the city.

(3) All costs and expenses of the council of a metropolitan borough in or in connection with the execution of any of the provisions of the London Building Acts or of any byelaws made in pursuance of those Acts shall be defrayed out of the general rate authorised to be levied by them. [1282]

Repeals

157. Repeals.—(1) The enactments mentioned in the Third Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule :

Provided that

- (a) any regulation order determination sanction approval consent permission modification waiver relaxation notice condition licence or certificate made given imposed or issued under any enactment repealed by this Act or by the Act of 1930 shall in so far as it is operative at the commencement of this Act have effect as if it had been made given imposed or issued under this Act ;
 - (b) subject to the provisions of this Act any person who at the commencement of this Act holds any office to which he was appointed under or by virtue of any enactment repealed by this Act or by the Act of 1930 shall be deemed to have been appointed to that office under or by virtue of this Act ;
 - (c) any register kept under the provisions of any enactment repealed by this Act or by the Act of 1930 shall if there is a corresponding provision in this Act be deemed part of the register or record to be kept thereunder ;
 - (d) any account constituted under this Act shall be deemed to be in continuation of the corresponding account constituted under the enactments repealed by this Act or by the Act of 1930 ;
 - (e) references in any document to the provisions of any enactment repealed by this Act or by the Acts of 1930 or 1935 shall be construed as references to any corresponding provision in the London Building Acts and any byelaws made in pursuance of those Acts ;
 - (f) where any offence (being an offence for the continuance of which a fine was provided) has been committed under any enactment repealed by this Act or by the Act of 1930 proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act in the same manner as if the offence had been committed under a corresponding provision in this Act.
- (2) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section 38 of the Interpretation Act 1889 with regard to the effect of repeals. [1283]

The SCHEDULES referred to in the foregoing Act.

Section 91.

FIRST SCHEDULE

Section 91 (1).

PART I

FEES PAYABLE TO COUNCIL

IN RESPECT OF DANGEROUS STRUCTURES

(a) For general services—	£	s.	d.
1. For preparation of notices forms for same and postage	—	0	3 6
2. For service of notices (clerk's time)	—	0	2 6
3. For travelling per mile (one way)	—	0	0 3

	£	s.	d.
4. For obtaining summons and order (clerk's time) - - - - -	0	2	6
5. For cost of each summons or order - - - - -	0	3	0
Where there are adjoining or nearly contiguous structures in the same ownership—			
For Nos. 2 and 4 (above) each - - - - -	0	2	0
The fees payable upon ten structures shall be the maximum fees.			

(b) For surveys inspections and other services by the district surveyor—

In respect of each structure reported as dangerous—

(i) Where there are not more than four adjoining or nearly contiguous structures in the same ownership—

1. For making a survey of the structure reported as dangerous and certifying opinion thereon—

If the structure does not exceed four squares in area and two storeys in height— - - - -	0	7	6
If exceeding four squares— - - - -	0	10	0
For every additional storey above two - - - - -	0	2	6

2. For each inspection of the structure and report as to completion or progress of the works - - - - - 0 | 5 | 0 |

3. For inspecting the structure before the hearing of the summons and attending the court to give evidence—

If one structure only - - - - -	0	10	0
If more than one structure for each structure - - - - -	0	5	0

4. For inspecting the structure before the hearing of the summons against the occupier (the owner having failed to comply) and attending the court to give evidence—

If one structure only - - - - -	0	10	0
If more than one structure for each structure - - - - -	0	5	0

5. For every adjournment of the summons - - - - - 0 | 5 | 0 |

6. For superintending the erection of shoring (including needling when requisite) and hoarding whether done by the Council or not and for certifying the account for the same when done by the Council - - - - - 0 | 10 | 0 |

7. For superintending the erection of shoring (including needling when requisite) without hoarding or hoarding without shoring and certifying the account - - - - - 0 | 7 | 6 |

8. For supervision including the report of the district surveyor in cases in which it is necessary for the Council to execute works to ensure the safety of the public under an order made by a court - - - - - 0 | 5 | 0 |

(ii) Where there are more than four adjoining or nearly contiguous structures in the same ownership the fees specified in paragraph (i) of this Part of this schedule shall be payable subject to the substitution of the following fees for the fees specified in the items in that paragraph numbered as follows :—

For No. 2 - - - - -	0	4	0
For No. 3 - - - - -	0	4	0
For No. 4 - - - - -	0	4	0
For No. 5 - - - - -	0	2	6
For No. 8 - - - - -	0	4	0

	£	s.	d.
IN RESPECT OF NEGLECTED STRUCTURES			
1. For each inspection of the building or structure and report	0	5	0
2. For obtaining summons and order (clerk's time)	—	—	0 2 6
3. For cost of each summons or order	—	—	0 2 0
4. For attendance at a court to give evidence	—	—	0 5 0
5. For each adjournment	—	—	0 2 6
6. For supervision of works including report of officer in cases where the magistrate's order is executed by the Council	—	—	0 5 0
7. For travelling per mile (one way)	—	—	0 0 3
8. The cost of procuring local evidence to satisfy the magistrate that the condition of the structure is prejudicial to the property in or the inhabitants of the neighbourhood is to be considered separately in each case.			
Where there are adjoining or nearly contiguous structures in the same ownership—			
For Nos. 1, 4 and 6 (above) each	—	—	0 3 0
For Nos. 2 and 5 (above) each	—	—	0 2 0
The fees payable upon ten structures shall be the maximum fees.			
For travelling per mile (one way)	—	—	0 0 3
			[1284]

Section 91 (3)

PART II

FEES PAYABLE TO COUNCIL FOR WORK DONE IN CONSEQUENCE OF DEFAULT BY OWNER OF A DANGEROUS STRUCTURE

	£	s.	d.
For each inspection of the structure after the order has been made	—	—	0 7 6
For checking and certifying accounts with respect to taking down repairing or securing the structure—			
Where the cost of the work does not exceed £5	—	—	0 10 6
Where such cost exceeds £5 but does not exceed £15	—	—	0 15 0
Where such cost exceeds £15 but does not exceed £25	—	—	1 1 0
Where such cost exceeds £25 but does not exceed £50	—	—	1 11 6
Where such cost exceeds £50 but does not exceed £75	—	—	2 2 0
Where such cost exceeds £75 but does not exceed £100	—	—	2 12 6
Where such cost exceeds £100	—	—	3 3 0

or 2½ per centum of such cost whichever is the greater.

For travelling per mile (one way) — — — 0 3 3

Where there are two or more adjoining or nearly contiguous structures in the same ownership the aggregate cost of the work on all the structures shall be deemed to be the cost of the work for the purposes of the scale of fees specified in this Part of this schedule. [1285]

Sections 92
and 93.

SECOND SCHEDULE

Section 92 (a)

PART I

FEES PAYABLE BY BUILDER OWNER OR OCCUPIER TO COUNCIL IN RESPECT OF SERVICES RENDERED BY DISTRICT SURVEYOR

(a) In respect of buildings or structures exempt in virtue of section 149 (Buildings exempt from provisions of Parts III and IV &c.) of this Act—

£ s. d.

For making a survey when reasonably necessary for the purpose of ascertaining whether a building or structure or an external addition to a building or structure is so exempt and whether if so exempt it infringes any provision of the London Building Acts or of any byelaws made in pursuance of those Acts from which the building or structure is not exempt — — 0 10 0

Provided that this fee shall not be payable in respect of a building or structure or an external addition to a building or structure which on survey—

(i) is ascertained not to be so exempt; or

(ii) although so exempt is ascertained to be of a cubical extent not exceeding 200 cubic feet.

(b) In respect of buildings erected after the commencement of this Act (except buildings exempt in virtue of section 149 (Buildings exempt from provisions of Parts III and IV &c.) of this Act and buildings referred to in heading (a) of Part II of this schedule)—

In respect of a building of a cubical extent not exceeding 5,000 cubic feet—

Not exceeding 500 cubic feet — — — — — 0 10 0

Exceeding 500 cubic feet but not exceeding 2,000 cubic feet — — — — — 1 0 0

Exceeding 2,000 cubic feet but not exceeding 5,000 cubic feet — — — — — 1 10 0

In respect of a building of a cubical extent exceeding 5,000 cubic feet the following fees together with an additional sum of £1 10s. 0d.—

For every 1,000 cubic feet and also for any fractional part of 1,000 cubic feet up to an aggregate cubical extent of 1,000,000 cubic feet — — — — — 0 1 6

For every 1,000 cubic feet beyond the first 1,000,000 cubic feet and also for any fractional part of 1,000 cubic feet — — — — — 0 0 9

Provided that when two or more dwelling houses each being of a cubical extent exceeding 5,000 cubic feet are erected by one builder or owner at the same time in the same street or under the same scheme the additional sum shall be—

For the first of such buildings — — — — — 1 10 0

For each additional building — — — — — 1 0 0

(c) In respect of structures to which Part IV (Special and temporary buildings and structures) of this Act applies the same amount as for a building to which heading (b) of this Part of this schedule applies calculated on the cubical extent of the structure or erection without reference to the extent of any building to which it may be attached or in or on which it may be put up:

Provided that this paragraph shall not apply in any case in which the local authority being a metropolitan borough council are the authority to grant consent under the said Part IV for the setting up erection or retention of the structure.

(d) In respect of additions alterations and other works to which the provisions of the London Building Acts and any byelaws made in pursuance of those Acts apply (except additions alterations or other works to or on buildings or structures exempt in virtue of section 149 (Buildings exempt from provisions of Parts III and IV &c.) of this Act and additions alterations and other works referred to in Part II of this schedule)—

For every addition alteration or other work made or done to or on any building or structure after the completion of the building or structure—

	£	s.	d.
When the cost does not exceed £5 — — — — —	0	10	0
When the cost exceeds £5 but not £10 — — — — —	0	15	0
When the cost exceeds £10 but not £25 — — — — —	1	0	0
When the cost exceeds £25 but not £50 — — — — —	1	10	0
When the cost exceeds £50 but not £75 — — — — —	2	0	0
When the cost exceeds £75 but not £100 — — — — —	2	10	0

When the cost exceeds £100 but not £1,000—

For the first £100 the sum of £2 10s. 0d. and for every £100 beyond the first £100 and also for any fractional part of £100 — — — — —

0 12 6

When the cost exceeds £1,000—

For the first £1,000 the sum of £8 2s. 6d. and for every £100 beyond £1,000 and also for any fractional part of £100 — — — — —

0 3 0

Provided that—

- (1) When the addition alteration or other work is made or done as the result of a notice served under section 62 (Certification of dangerous structures) of this Act without the necessity of a complaint being made to a court of summary jurisdiction and the cost thereof does not exceed £5 no fee shall be payable in respect thereof;
- (2) When the addition alteration or other work is made or done as the result of a notice served under the said section 62 or an order of a court of summary jurisdiction and the cost thereof exceeds £5 the fee payable shall be reduced by the amount of the fee payable under item 2 of paragraph (i) of heading (b) of Part I of the First Schedule to this Act for an inspection and report as to the completion of the works when such inspection is coincident with any other inspection made by the district surveyor in connection with his supervision of an addition alteration or other work under the London Building Acts and any byelaws made in pursuance of those Acts;
- (3) No fee shall exceed the fee payable in respect of a building to which heading (b) of this Part of this schedule applies of the same cubical extent as that of the building as altered and in the case of an addition alteration or other work made or done to or on one of two or more existing buildings which have been united each building shall be deemed a separate building for the purpose of calculating the maximum fee and in the case of an addition alteration or other work made or done to or on one section or division of an existing building which has been planned in separate sections or is in distinct divisions each section or division of the building shall be deemed a separate building for such purpose.

(e) In respect of public buildings (except public buildings wherein the loads and stresses are transmitted through each storey to the foundations wholly or principally by a skeleton framework of steel or reinforced concrete or both)—

The fees payable shall be those payable under heading (b) or heading (d) (as the case may be) of this Part of this schedule with the addition of fifty per centum of the respective amounts of such fees.

(f) In respect of shafts and chimney breasts (except shafts and

£ s. d.

chimney breasts exempt by virtue of section 149 (Buildings exempt from provisions of Parts III and IV &c.) of this Act)—

On the construction of a chimney shaft or similar shaft for ventilation or other purpose in addition to the fee payable for any other operation in progress at the same time—

Not exceeding 10 feet in height	-	-	-	-	0	10	0
Exceeding 10 feet and not exceeding 20 feet	-	-	-	-	1	0	0
Exceeding 20 feet and not exceeding 30 feet	-	-	-	-	1	10	0
Exceeding 30 feet and not exceeding 75 feet	-	-	-	-	3	0	0
Exceeding 75 feet and not exceeding 100 feet	-	-	-	-	4	0	0
Exceeding 100 feet—							

For the first 100 feet the sum of £4 and for every 10 feet beyond 100 feet and for any fractional part of 10 feet	-	-	-	-	0	10	0
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Provided that in respect of a reinforced concrete shaft the fee shall be two and one half times the fee payable according to the foregoing scale.

On examining and certifying that a chimney breast in a party wall may or may not be cut away	-	-	-	-	0	15	0
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(g) On certifying plans—

(i) For examining and certifying plans under section 46 (Saving for certain domestic buildings on old sites) of the Act of 1930—

A fee equal to one half of the amount of the fee specified in this Part of this schedule in respect of the erection of a building to which heading (b) of this Part of this schedule applies of the same cubical extent as that of the building to which the plans with a minimum fee per building of	-	-	-	-	2	0	0
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(ii) For examining and certifying plans under section 13 (Position of buildings with reference to highways) of the Act of 1930—

(1) If the external wall of the building or structure wholly abuts on the road way and the length of such wall does not exceed 40 feet ; or

(2) If the external wall of the building or structure abuts in part on the roadway and there is a forecourt or other space between a portion of the external wall and the roadway and the aggregate length of so much of the external wall as abuts on the roadway and of the external fence or boundary of such forecourt or other space abutting on the roadway does not exceed 40 feet ; or

(3) If no portion of the external wall of the building or structure abuts on the roadway but there is a forecourt or other space between the external wall and the roadway and the length of the external fence or boundary of such forecourt or other space abutting on the roadway does not exceed 40 feet—

A fee of	-	-	-	-	-	2	0	0
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If any such length or aggregate length as the case may be exceeds 40 feet—

the said fee of £2 and in addition for every 20 feet of such length or aggregate length beyond 40 feet and also for any fractional part of such length or aggregate length of 20 feet	-	-	-	-	-	0	10	0
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£ s. d.

Provided that if plans submitted at any one time under the said section 13 to the district surveyor include two or more adjoining or nearly contiguous buildings or structures and the district surveyor certifies such plans or so much of such plans as includes more than one of such buildings or structures the buildings or structures to which the certified plans relate shall for the purpose of calculating the fee payable be deemed to be one building or structure ;

- (iii) For examining and certifying plans under both the said sections 46 and 13 of the Act of 1930—

A fee equal to—

(1) The amount of the fee payable under the foregoing sub-paragraph (i) ; and

(2) one half of the amount of the fee payable under the foregoing sub-paragraph (ii).

- (h) For special services—

For attending at a court when an order is made for complying with a notice of irregularity — — — — — 0 10 0

For services relating to the erection of buildings on low-lying lands — — — — — per building 0 5 0

[1286]

Sect. 92 (b).

PART II

FEES PAYABLE BY BUILDER OWNER OR OCCUPIER TO COUNCIL IN RESPECT OF SERVICES RENDERED BY DISTRICT SURVEYOR IN REGARD TO BUILDINGS WHEREIN THE LOADS AND STRESSES ARE TRANSMITTED THROUGH EACH STOREY TO THE FOUNDATIONS WHOLLY OR PRINCIPALLY BY A SKELETON FRAMEWORK OF STEEL OR REINFORCED CONCRETE OR BOTH

(a) In respect of a building erected after the commencement of this Act wherein the loads and stresses are transmitted through each storey to the foundations wholly or principally by a skeleton framework of steel or reinforced concrete or both—

- (i) A fee based on the cubical extent of the proposed building and equal to one half of the amount of the fee payable in respect of a building to which heading (b) of Part I of this schedule applies :

Provided that if at any time after the fee has become payable the cubical extent on which the fee was calculated is increased a further fee shall be payable equal in amount to the difference (if any) between the amount of the fee which would be payable in respect of the cubical extent as so increased and the amount of the fee payable in respect of the cubical extent stated in the original building notice but no additional fee shall be payable in respect of other modifications of the details of the plans sections and calculations submitted with the building notice where such modifications are the result of requirements of byelaws made in pursuance of the London Building Acts ; and

- (ii) A fee equal to one and one-half times the amount of the fee payable in respect of a building to which heading (b) of Part I of this schedule applies.

(b) In respect of additional alterations and other works to or on buildings wherein the loads and stresses are transmitted through each storey to the foundations wholly or principally by a skeleton framework of steel or reinforced concrete or both and made or done to or on the buildings after the completion of the buildings—

A fee to be calculated in the same manner as if the addition alteration or other work were an addition alteration or other work under heading (d) (other than proviso (3) to the scale set out under that heading) of

Part I of this schedule but the fee shall not exceed the total amount of the fee payable under heading (a) of this Part of this schedule in respect of a building of a total cubical extent equal to the total cubical extent of the building as altered and containing a cubical extent in respect of which the loads and stresses are transmitted through each storey to the foundations wholly or principally by a skeleton framework of steel or reinforced concrete or both equal to the cubical extent of such construction contained in the building as altered and in the case of an addition alteration or other work made or done to or on one of two or more existing buildings which have been united each building shall be deemed a separate building for the purpose of calculating the maximum fee and in the case of an addition alteration or other work made or done to or on one section or division of an existing building which has been planned in separate sections or is in distinct divisions each section or division of the building shall be deemed a separate building for the said purpose.

(c) In respect of conversion of buildings within the meaning of subsection (2) of section 2 of the Act of 1935 in connection with which no structural work is involved but the district surveyor is required to perform a duty involving calculations as to the stability of the building such fee to be fixed in each case by the Council as may be reasonable in the circumstances of that case. [1287]

Sect. 92 (c).

PART III

FEEs PAYABLE BY BUILDER OWNER OR OCCUPIER TO COUNCIL IN RESPECT OF SERVICES RENDERED BY DISTRICT SURVEYORS IN REGARD TO MEANS OF ESCAPE IN CASE OF FIRE

In respect of any work or thing under section 34 (Protection against fire in certain new buildings) or section 35 (Protection against fire in certain old buildings) of this Act a fee equal to one-fifth of the amount of the fee payable under heading (b) of Part I of this schedule in respect of a building or the sum of £2 whichever is the greater :

Provided that in the case of a one storey building the minimum fee shall be £1 instead of £2.

In respect of any work or thing under section 36 (Projecting shops) or section 37 (Means of access to roofs) of this Act a fee equal to one-fifth of the amount of the fee payable under Part I of this schedule in respect of an alteration addition or other work or the sum of £1 10s. whichever is the greater. [1288]

Sect. 93

PART IV

RULES

1. Any fees payable in respect of works to a party wall comprise the fees payable in respect of both sides of the wall.

2. No fee shall be payable in respect of the fixing of a chimney pot.

3. No fee shall be payable in respect of the repairing of a chimney top unless the top has been pulled down to a greater extent than twelve inches.

4. No fee shall be payable in respect of the repairing of a parapet unless the parapet has been pulled down to a greater extent than twelve inches.

5. In calculating for the purposes of this schedule the cubical extent of any building erected after the commencement of this Act the cubical extent of all unattached outbuildings (including exempted buildings) not exceeding 300 cubic feet in extent shall be included if such outbuildings are erected at the same time as the main building. [1289]

THIRD SCHEDULE

Sect. 157.

ENACTMENTS REPEALED

Session and chapter.	Short title.	Extent of repeal.
34 & 35 Vict. c. lv.	Billingsgate Market Act, 1871.	Section 15.
38 & 39 Vict. c. lix.	London Central Markets Act, 1875.	Section 22.
42 & 43 Vict. c. cii.	Leadenhall Market Act, 1879.	Section 17.
16 & 17 Geo. 5, c. xiv.	Hackney Borough Council Act, 1926.	Section 47.
20 & 21 Geo. 5, c. clviii.	London Building Act, 1930	Section 5 so far as subsection (2) of section 4 of this Act declares that it shall cease to have effect. Section 18. Part IV comprising sections 33 to 41. Part VI comprising sections 57 to 88 so far as unrepealed. Part VII comprising sections 89 to 94. Part VIII comprising sections 95 to 112. Part IX comprising sections 113 to 127. Part X comprising sections 128 to 142. Part XIII comprising sections 149 and 150. Part XIV comprising sections 151 to 183. Part XVI comprising sections 187 to 210. Part XVII comprising sections 211 to 236. First Fourth and Fifth Schedules. Section 48.
21 & 22 Geo. 5, c. lix.	London County Council (General Powers) Act, 1931.	
25 & 26 Geo. 5, c. xcii.	London Building Act (Amendment) Act, 1935.	Paragraph (f) of subsection (2) of section 4. In paragraph (a) of section 8 the words "the Secretary of State". In subsection (2) of section 9 the words from "and shall be accompanied" to end of the subsection. In subsection (8) of section 9 from the beginning of that subsection down to "of the principal Act" where those words secondly occur. Subsection (2) of section 10. Section 11. Subsections (2) and (3) of section 13.

[1290]

THE LONDON COUNTY COUNCIL (GENERAL POWERS) ACT, 1939

(2 & 3 Geo. 6, c. c.)

An Act to confer further powers upon the London County Council and other authorities and for other purposes. [1291] [4th August, 1939.]

PART I

INTRODUCTORY

1. **Short title.**—This Act may be cited as the London County Council (General Powers) Act, 1939. [1292]

2. Act divided into Parts.—This Act is divided into Parts as follows :—

Part I.—Introductory.

Part II.—Acquisition of land by the Council.

Part III.—Works to be executed by the Council.

Part IV.—Powers for the Kensington Council.

Part V.—Public health.

Part VI.—Extensions of time.

Part VII.—Miscellaneous. [1293]

3. Interpretation.—(1) In this Act except as otherwise expressly provided or unless the subject or context otherwise requires—

“the county” means the administrative county of London ;

“the Council” means the London County Council ;

“borough” means a metropolitan borough and “the borough” means the metropolitan borough in relation to which that expression is used ;

“borough council” means the council of a borough and “the borough council” means the council of the borough in relation to which that expression is used ;

“the city of Westminster” means the borough and city of Westminster ;

“the Kensington Council” means the council of the royal borough of Kensington ;

“the Lambeth Council” means the council of the borough of Lambeth ;

“the Westminster Council” means the council of the city of Westminster ;

“the Minister” means the Minister of Transport ;

“the Act of 1936” means the Public Health (London) Act, 1936 ;

“the improvements” means the embankment walls embankments new streets street widenings improvements of streets and other works by Part III of this Act authorised or any of them or any part thereof respectively ;

“reserved area” means any area for the time being set apart in the improvements for dividing lines of traffic, or for forming circuits for gyratory systems of traffic operation ;

“the London deposited plans” “the London deposited sections” and “the London book of reference” mean respectively so much of the plans and sections deposited in connection with the Bill for this Act with the clerk of the Council as relates to the improvements and the lands to be acquired by the Council under the powers of this Act for the purpose of or in connection with the improvements or for other purposes and so much of the book of reference so deposited as aforesaid as relates to that part of the said plans ;

“the Kensington deposited plan” “the Kensington deposited section” and “the Kensington book of reference” mean respectively so much of the plans and sections so deposited as aforesaid as relates to the lands to be acquired or used and the work to be executed by the Kensington Council under the powers of this Act and so much of the book of reference so deposited as aforesaid as relates to that part of the said plans ;

- "the Lands Clauses Acts" means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act, 1919;
- "land" or "lands" includes any interest in land and any easement or right in to or over land;
- "the tribunal" means the arbitrator or other authority to whom any question of disputed purchase money or compensation under this Act is referred in pursuance of the Acquisition of Land (Assessment of Compensation) Act, 1919;
- "street" has the meaning assigned to that term by the Metropolis Management Acts, 1855 to 1893;
- "enactment" includes any enactment in a Provisional Order confirmed by Parliament;
- "telegraphic line" has the same meaning as in the Telegraph Act, 1878; and
- "the port authority" means the Port of London Authority.

[1294]

For the Public Health (London) Act, 1936, see 30 Statutes 437, and for the Metropolis Management Acts, see 11 Statutes, title METROPOLIS.

(2) Except as otherwise expressly provided in this Act or unless the context otherwise requires terms to which meanings are assigned by any enactment incorporated with or applied by this Act or which have in any such enactment special meanings have in and for the purposes of this Act the same respective meanings. [1295]

(3) Where in this Act any distance or length is stated in the description of any works the reference to that distance or length shall be construed as if the words "or thereabouts" were inserted after such distance or length. [1296]

(4) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied extended amended or varied by or by virtue of any subsequent enactment including this Act. [1297]

4. Incorporation of Lands Clauses Acts.—(1) The Lands Clauses Acts so far as they are applicable for the purposes of and are not varied by or inconsistent with this Act are hereby incorporated with and form part of this Act with the following exceptions and modifications.

- (a) sections 127 to 133 inclusive of the Lands Clauses Consolidation Act 1845 are not incorporated with this Act;
- (b) the bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be under the seal of the Council or the Kensington Council (as the case may be) and shall be sufficient without the addition of the sureties mentioned in that section.

(2) For the purposes of this Act the expressions "the promoters of the undertaking" and "the company" in the Lands Clauses Acts shall be construed to mean the Council or the Kensington Council (as the case may be). [1298]

PART II

ACQUISITION OF LAND BY THE COUNCIL

[1299]

(This Part (ss. 5—23) authorises the L.C.C. to acquire lands in Lambeth, Westminster and Wandsworth.)

PART III

WORKS TO BE EXECUTED BY THE COUNCIL

[1300]

(This Part (ss. 24—50) authorises the L.C.C. to execute certain works of improvement on the embankment at Westminster (near Vauxhall Bridge) and Lambeth (between Waterloo Bridge and the County Hall), and to stop up and divert streets, and also contains the usual incidental and protective provisions.)

PART IV

POWERS FOR THE KENSINGTON COUNCIL

[1301]

This Part (ss. 51—65) confers powers on the Council of the Royal Borough of Kensington to execute certain works of improvement.

PART V

PUBLIC HEALTH

66. Notice of intention to demolish a building.—The power to make byelaws conferred by section 85 (Byelaws as to demolition of buildings) of the Act of 1936 shall extend to enable the county council to make byelaws requiring any person who is about to demolish a building within a borough to give to the borough council such notice of his intention so to do as may be specified in the byelaws. [1302]

For s. 55 of P.H. (London) A., 1936, see 30 Statutes 491.

67. Provision of ashpits.—(1) (a) A sanitary authority may as respects any premises within their district provide and maintain such number of moveable ashpits as they may consider necessary and may (if they think fit) make an annual charge in respect of each ashpit so provided and maintained by them as follows :—

- (i) in the case of an ashpit having a capacity not exceeding three and a quarter cubic feet such sum not exceeding four shillings as they may think fit ; and
- (ii) in the case of any other ashpit such sum as they may reasonably determine.

(b) The premises referred to in this subsection shall include any house to which subsection (3) of section 105 of the Act of 1936 applies and as respects any such house with reference to which the powers of this subsection are exercised the sanitary authority shall not be obliged to put into force the provisions (so far as they relate to ashpits) of the said subsection (3) as amended by this section. [1303]

In s. 105 (3) of the Act of 1936, see 30 Statutes 501. That subsection applies to any house, whether built before or after the commencement of the Act, which is without a sufficient ashpit or one or more proper and sufficient waterclosets.

(2) Any charge made under subsection (1) of this section shall become due on the first day of April in each year and may be recovered as part of the general rate in respect of the premises for which the ashpit was provided but without prejudice to the rights of any person under any tenancy agreement :

Provided that—

- (a) if any ashpit is provided and maintained by the sanitary authority in respect of any premises which are in more than one occupation for rating purposes the sanitary authority shall make a reasonable apportionment of the charge in respect of each part of the premises so separately occupied ; and

- (b) if on the first day of April in any year the premises or any part thereof as aforesaid are or is unoccupied the charge or the sum apportioned to such part in respect of the charge (as the case may be) shall not be recoverable until the premises or part as aforesaid become or becomes occupied and if they or it remain or remains unoccupied during the whole of the period commencing on the said day and ending on the next following thirty-first day of March the charge or apportioned sum in respect of that period shall be treated as irrecoverable. [1304]

(3) In subsection (1) of section 105 of the Act of 1936 the words "furnished with proper doors and coverings" are hereby repealed and subject to the provisions of subsection (3) of section 107 of the said Act the directions which the sanitary authority are empowered to give in a notice requiring the provision of an ashpit under subsection (3) of the said section 105 shall include directions as to the number material size and construction of the ashpits which the authority require to be provided for the house in respect of which the notice is served :

Provided that nothing in this subsection shall entitle the sanitary authority to require the replacement of any ashpit in use on the first day of July, one thousand nine hundred and thirty-nine, so long as such ashpit continues to be used and is maintained in all respects in accordance with any enactment or byelaw applicable thereto. [1305]

(4) Subsection (2) of section 90 of the Act of 1936 shall be read and have effect as if there were inserted therein a reference to ashpits provided under the powers conferred by subsection (1) of this section. [1306]

(5) This section shall be construed as forming part of the Act of 1936 and that Act shall be read and have effect as if this section were inserted in Part III thereof. [1307]

For s. 90 (2) of the Act of 1936, see 30 Statutes 494.

68. Byelaws by sanitary authorities as to pleasure fairs.—(1) A sanitary authority may make byelaws—

- (a) for regulating the hours during which any pleasure fair held within their district may be open to the public ;
- (b) for securing safe and adequate means of ingress to and egress from the ground upon which any such pleasure fair is held ; and
- (c) for the prevention and suppression of nuisances and for preserving sanitary conditions and cleanliness at any such pleasure fair.

(2) In this section the expression "pleasure fair" means any entertainment which is run for profit and which consists of or includes any or all of the following forms of entertainment whether or not in combination with any other forms that is to say any travelling circus exhibition of human beings or performing animals merry-go-round roundabout switchback railway cocoanut-shy hoop-la shooting-gallery or swings or any thing similar to any of the foregoing but the expression does not include any fair held by statute charter royal licence letters patent or ancient custom.

(3) It shall be the duty of every sanitary authority to enforce any byelaws made by them under this section.

(4) Nothing in this section shall prejudice or affect the operation of any powers exercisable by the county council.

(5) This section shall be construed as forming part of the Act of 1936 and that Act shall be read and have effect as if this section were inserted therein :

Provided that notwithstanding anything in section 276 (Confirmation of byelaws) of the Act of 1936 the Secretary of State shall be the confirming authority in respect of byelaws made under this section.

[1308]

Under s. 276 of the Act of 1936 (30 Statutes 590) the Minister of Health is the confirming authority.

PART VI

EXTENSIONS OF TIME

[1309]

(This Part (ss. 69 and 70) extends the time limited for the compulsory purchase of lands under earlier Local Acts relating to London.)

PART VII

MISCELLANEOUS

71. Provision of day nurseries for children in open spaces.—(1) Part V (Open spaces) of the London County Council (General Powers) Act 1935 shall be read and have effect as if—

- (i) the matters referred to in paragraph (a) of subsection (1) of section 42 (Facilities for public recreation) of the said Act included the provision and maintenance by any local authority other than the Council of the day nurseries for children ; and
- (ii) powers similar to those exercisable by a borough council under the said Part V in relation to day nurseries for children in open spaces under their control and management (other than such powers of provision and maintenance as are referred to in the said paragraph (a)) were exercisable by the Council in relation to open spaces under their control and management :

Provided that—

- (a) there shall not be used for the purposes of a day nursery for children any open spaces which is a disused burial ground or is less than two acres in extent or is not situate within the county nor (except with the consent of the owner) any open space which is not vested in the local authority having the control and management thereof ;
- (b) the part of an open space set apart or enclosed for the purposes aforesaid shall not exceed in any open space five hundred square yards ;
- (c) no part of an open space shall be used for the purposes of this section for more than an aggregate period of thirteen weeks in any one year ; and
- (d) no permanent buildings shall be erected for the purposes of this section and any temporary buildings structures or fences which may be erected or placed on any part of an open space set apart or enclosed for those purposes shall be removed at the expiration of the aggregate period during which it is so used in each year. [1310]

(2) For the purposes of this section the power of a borough council acting as a welfare authority under Part XII of the Act of 1936 to make arrangements for attending to the health of children shall include the powers conferred upon them by this section. [1311]

For Part V of the Act of 1935, see 28 Statutes 151, *et seq.*, and for Part XII of the Act of 1936, see 30 Statutes 578.

72. Removal of building restriction on land near Brixton Oval.—

(1) (a) Notwithstanding the restrictions contained in the Act 46 Geo. 3 chapter lvii (in this section referred to as "the Act of 1806") upon the erection or placing of buildings or erections on certain land in the borough of Lambeth shown by pink and blue colours on the plan (in this section referred to as "the signed plan") signed in triplicate by the Right Honourable the Earl of Onslow the chairman of the committee of the House of Lords to whom the Bill for this Act was referred (of which plan copies have been deposited in the Committee and Private Bill Office of the House of Commons and in the Parliament Office House of Lords and with the clerk of the Council respectively) it shall be lawful for the Council on application being made by any person being an owner of any part of the said land to consent to the erection or placing of such buildings or erections or parts of buildings or erections as may be approved by the Council or to the retention or such extension as may be approved by them of any existing building or erection or part of an existing building or erection on or over any portion of the said land which is shown by pink colour on the signed plan and of which such person is an owner upon and subject to such terms and conditions as may be agreed upon between the Council and such person.

(b) As from the date of any consent given by the Council under this subsection and to the extent of their consent the restrictions contained in the Act of 1806 upon the erection or placing of buildings or erections shall cease to have effect as respects so much of the land shown by pink colour on the signed plan as comprises the site of the building or erection or part of a building or erection (including the curtilage thereof) to which the consent relates.

(2) Any term or condition agreed upon in pursuance of this section shall be binding on the owner and occupier for the time being of the building erection or land to which the term or condition relates and on the Council and if at any time any such term or condition is not observed or fulfilled any person on whom it is binding and who may be in default shall be liable to a penalty not exceeding fifty pounds and to a daily penalty not exceeding ten pounds.

(3) Nothing in the foregoing provisions of this section shall (save in accordance with any term or condition which may be agreed upon as aforesaid) be deemed to authorise the retention on or over any part of the said land shown by pink colour on the signed plan of any building or erection or part of a building or erection which may have been erected or placed thereon or thereover before the commencement of this Act.

(4) If and so soon as any land is surrendered or given up for the widening of any highway pursuant to a term or condition agreed upon under subsection (1) of this section it shall vest in the Council and shall as soon as practicable after the date of such vesting be made up and paved by and at the expense of the Council and thereafter form part of the highway :

Provided that the Lambeth Council shall contribute one eighth part of the total cost reasonably incurred by the Council (irrespective of any

grant or contribution towards such cost which may be otherwise received by the Council) in making up and paving any land in pursuance of this subsection.

(5) Any widening of the highway if carried out as aforesaid and the said contribution by the Lambeth Council towards the cost thereof shall be deemed to be a street improvement and contribution (as the case may be) made in pursuance of the provisions of the Metropolis Management Acts 1855 to 1893.

(6) Nothing in this section shall prejudice or affect the operation of—

- (a) the London Building Acts 1930 and 1935 or any byelaw or regulation for the time being in force thereunder ; or
- (b) the Town and Country Planning Act 1932 or any scheme or order for the time being in force under that Act or under any Act repealed by that Act ; or
- (c) the Restriction of Ribbon Development Act 1935 or any order for the time being in force thereunder.

(7) For the purposes of this section the following expressions have the respective meanings hereby assigned to them :—

“daily penalty” in relation to any offence means a penalty in respect of every day on which the offence is continued after conviction therefor ; and

“owner” includes every person in possession or receipt either of the whole or of any part of the rents or profits of any land or tenement or in the occupation of any land or tenement otherwise than as a tenant from year to year or for any less term or as a tenant at will. [1312]

73. Travelling &c. expenses of members and committees of Council.—

(1) The Council may if they think fit defray—

- (a) the reasonable travelling expenses incurred by any committee of the Council or by any sub-committee of any such committee in the discharge of the functions conferred on the committee or sub-committee by the Council
- (b) the reasonable travelling expenses incurred by individual members of the Council or of any committee thereof or of any sub-committee of any such committee (including representatives of the Council on any managing committee of a school or other institution) in proceeding to and from meetings of the Council or of the committee or sub-committee or managing committee or in making at the request of the Council or of any committee thereof or of a sub-committee of any such committee visits of inspection to any institution or other place or in attending at any offices or institution for the discharge of official functions entrusted to them by the Council or the committee or sub-committee ; and
- (c) the reasonable subsistence expenses incurred by individual members of the Council or of any committee thereof or of any sub-committee of any such committee (including representatives of the Council or any managing committee of a school or other institution) in making at the request of the Council or of any committee thereof or of any sub-committee of any such committee visits of inspection to any institution or other place situate outside the county. [1313]

(2) Section 17 of the London County Council (General Powers) Act 1911 and section 37 of the London County Council (General Powers) Act 1926 are hereby repealed. [1314]

The repealed provisions (11 Statutes 1316, 1382) dealt with the same subject, but did not extend to the payment of the expenses of travelling to and from meetings. The London Government Act, 1939, s. 163, *ante*, does not authorise such payments in the case of metropolitan borough councillors.

74. Gratuities to non-pensionable employees in non-provided educational institutions.—(1) For the purposes of section 61 of the London County Council (General Powers) Act 1930 (which empowers the Council to grant gratuities to or in respect of certain persons in their service) any person who is for the time being or at the time of his death was employed wholly or in part at the expense of the Council in any educational institution not provided by them shall be deemed to be or to have been in the service of the Council.

(2) The words "or employed wholly or in part at the expense of" "the Council in any such educational institution not so provided" in paragraph (a) of subsection (6) of the said section are hereby repealed. [1315]

For s. 61 of the Act of 1930, see 23 Statutes 365.

75. Allocation to spouse of part of superannuation allowance payable under Asylums Officers' Superannuation Act 1909 &c.—(1) The powers conferred on the Council by the Asylums Officers' Superannuation Act 1909 shall extend to enable them to make rules for—

- (a) securing that in such circumstances and subject to such conditions as to proof of good health and other matters as may be specified in the rules an established officer or servant employed by the Council who becomes entitled to a superannuation allowance under the said Act of 1909 (whether as originally enacted or as extended by the Asylums and Certified Institutions (Officers' Pensions) Act 1918) may on his resignation or otherwise ceasing to hold his office or employment (otherwise than on the ground of ill-health) be allowed to surrender as from the date when he ceases to hold his office or employment in return for the benefits of the rules such part (not exceeding one-third) of the superannuation allowance payable to him under the said Act of 1909 as may be specified in the rules; and
- (b) enabling the Council to grant to the spouse of the said officer or servant a pension of such value as according to tables to be prepared from time to time by an actuary appointed by the Council is actuarially equivalent at the date when the officer or servant ceases to hold his office or employment to the value of that part of the superannuation allowance which is surrendered. [1316]

For the Asylums Officers' Superannuation Act, 1909, see 11 Statutes 152 and for the Act of 1918, *ibid.*, 197. The new provisions correspond to those enacted in relation to officers to whom the Acts mentioned in this section do not apply by the Teachers Superannuation Act, 1937, s. 1, and the Local Government Superannuation Act, 1937, s. 9 (30 Statutes 180, 396).

(2) Any such pension as aforesaid shall—

- (a) be payable in respect of the period (if any) for which the spouse survives the employee;
- (b) be paid at such intervals (not being longer than three months) as may be determined by the Council; and

- (c) be deemed to be a superannuation allowance within the meaning of the said Act of 1909. [1317]

76. Provisional cinematograph licences.—(1) Notwithstanding anything contained in the Cinematograph Act 1909 the power of the Council to grant licences under that Act shall extend to enable them to grant provisional licences in respect of premises proposed to be or in course of being erected or altered or adapted to render the premises suitable for the purpose of exhibitions to which section 1 of that Act applies.

(2) The provisions of the Cinematograph Act 1909 shall apply to the grant of provisional licences in pursuance of the foregoing subsection in the same manner as if the said licences were licences under that Act but a provisional licence shall not be of any force until it has been confirmed by the Council :

Provided that for the purposes of this subsection the reference in subsection (4) of section 2 of the said Act of 1909 to the police area in which the premises are situated shall be construed as a reference to the police area in which the site of any premises proposed to be or in course of being erected is situated. [1318]

77. Cinematograph displays by borough councils.—A borough council may give or arrange for the giving of cinematograph displays relating to the functions of local authorities and for any such purpose may provide or make provision for the use of rooms and may make reasonable charges for admission to the displays or for the use of such rooms (as the case may be) and incur expenditure for or in connection with the exercise of the powers conferred by this section. [1319]

78. Superannuation of employees on ships owned by borough councils.—A borough council being an administering authority within the meaning of the Local Government Superannuation Act 1937 may make and shall be deemed to have been at all times empowered to make contributions in respect of any of their employees to the Merchant Navy Officers Pension Fund registered under the Superannuation and other Trust Funds (Validation) Act 1927 and for the purposes of the said Act of 1937 an employee of any such council in respect of whom contributions as aforesaid are made shall not be deemed to be a contributory employee of that council. [1320]

79. Establishment of renewals and repairs funds by borough councils.—(1) A borough council may (if they think fit) establish a fund (in this section referred to as “the renewals and repairs fund”) for the purpose of defraying expenditure incurred in repairing maintaining or renewing any buildings works plant appliances or things the cost of repairing maintaining or renewing which is payable out of the fund or account to which the proceeds of the general rate levied by the borough council are carried (in this section referred to as “the general rate fund”) and may apply any fund so established or any part thereof in defraying such expenditure :

Provided that this section shall not authorise the establishment of any fund to be applied in defraying any expenditure in connection with—

- (a) building works plant appliances or things for the purposes of any undertaking in respect of which the borough council are empowered under any other enactment to provide a reserve fund ; or

(b) buildings in respect of which the borough council are required by the Housing Act 1936 to keep a housing repairs account.

(2) The borough council may transfer from the general rate fund to the renewals and repairs fund such sums as they think fit :

Provided that—

- (a) the aggregate sum which may be so transferred in any financial year shall not except with the consent of and to such extent as may be approved by the Minister of Health exceed ten thousand pounds or the produce of a rate of twopence in the pound (whichever is the less) ;
- (b) the amount standing to the credit of the renewals and repairs fund shall not except with the consent of and to such extent as may be approved by the Minister of Health at any time exceed thirty thousand pounds ; and
- (c) if in any financial year the amount standing to the credit of the renewals and repairs fund is insufficient for the purposes of that fund the deficiency may be made good out of the general rate fund notwithstanding that the amount of the deficiency when added to any amount transferred under paragraph (a) of this proviso exceeds the aggregate sum which may in that financial year be transferred pursuant to that paragraph.

(3) If a borough council establish a renewals and repairs fund under the provisions of subsection (1) of this section any amount not exceeding the sum of thirty thousand pounds or such amount exceeding that sum as the Minister of Health may approve which at the commencement of this Act stands to the credit of any fund formed by the borough council for the purposes for which the renewals and repairs fund is authorised to be established may be carried to the credit of the renewals and repairs fund of the borough council.

(4) (a) Pending the application of moneys forming part of the renewals and repairs fund for the purposes authorised by this section such moneys shall—

- (i) be invested in any statutory security ; or
- (ii) be used in the manner authorised in the case of a reserve fund by section 55 (Power to borough councils to use sinking and other funds instead of borrowing) of the London County Council (General Powers) Act 1924 and so far as regards any moneys forming part of the renewals and repairs fund paragraph (a) of subsection (3) of that section shall be read and have effect as if that paragraph imposed an obligation on the borough council to retransfer such moneys to the renewals and repairs fund as and when required for the purposes of that fund.

(b) Any income arising in any financial year from the investment or use in the manner provided by this subsection of moneys forming part of the renewals and repairs fund shall be carried to and form part of the general rate fund and (subject to the provisions of paragraph (b) of the proviso to subsection (2) of this section) an amount equivalent to such income shall as soon as practicable after the end of that year be transferred from the general rate fund to the renewals and repairs fund.

(c) In this subsection " statutory security " means any security in which trustees are for the time being by or under any Act of Parliament

authorised to invest trust money and any mortgage bond debenture debenture stock stock or other security authorised by or under any Act of Parliament of any local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any security of the borough council by whom the investment is made.

(5) For the purposes of this section the expression "works" includes works in connection with the repair maintenance renewal or reconstruction of streets and the produce of a rate of twopence in the pound shall be ascertained in accordance with the basis prescribed by paragraph (2) of rule 1 of the Form of Demand Note (London) Rules 1930 or by any corresponding provision subsequently made in substitution for that paragraph. [1321]

* * * * *

The SCHEDULES referred to in the foregoing Act.

(These are of local interest only.) [1322]

MARKETS AND FAIRS

ORDERS, CIRCULARS AND MEMORANDA :—

Markets and Fairs (Delegation of Functions relating to Weighing of Cattle) Order, 1938

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ORDERS, CIRCULARS AND MEMORANDA

MARKETS AND FAIRS (DELEGATION OF FUNCTIONS RELATING TO WEIGHING OF CATTLE) ORDER, 1938

S. R. & O., 1938, No. 1597

December 19, 1938

In exercise of the powers conferred upon him by Section 21 of the Livestock Industry Act, 1937, the Minister of Agriculture and Fisheries hereby Orders as follows :—

1. All those functions exercisable in relation to markets by the said Minister which by virtue of the said Section of the said Act may by order be delegated to the Livestock Commission are hereby delegated to the said Commission.

2. This Order shall come into operation on the first day of January, nineteen hundred and thirty-nine.

3. This Order may be cited as the Markets and Fairs (Delegation of Functions relating to Weighing of Cattle) Order, 1938.

* * * * * [1323]

MENTAL DEFECTIVE

See PERSONS OF UNSOUND MIND.

MIDWIVES

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE	Midwives (Certifying Hospitals and Institutions) Order (No. 3), 1939	PAGE
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ORDERS, CIRCULARS AND MEMORANDA

DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1939, No. 927, as amended

33. Exemption of certain women from Acts relating to midwives.—

(1) A local supervising authority within the meaning of the Midwives Act, 1902, if it appears to that authority to be necessary so to do in order to secure that the number of women who are available in its area or any part thereof for attendance on women in childbirth, or as maternity nurses during childbirth or at any time during the lying-in period as defined for the purposes of subsection (1) of section one of the Midwives Act, 1936, is adequate for the needs of the area or that part thereof, as the case may be, may by an order made as respects the area or that part thereof exempt from the provisions of the Midwives Acts, 1902 to 1936, for such period and subject to such conditions as may be specified in the order, any such women who have surrendered their certificates under subsection (1) of section five of the Midwives Act, 1936, as may be named in the order.

A woman named in any order under this paragraph which is for the time being in force shall, for the purposes of subsection (1) of section one of the Midwives Act, 1936, be deemed to be a certified midwife.

(2) Without prejudice to the power to attach conditions to any exemption granted by an order under the preceding paragraph, it shall be a condition of such an exemption that every woman on whom the exemption is conferred shall comply with any rules for the time being in force under section three of the Midwives Act, 1902, regulating, supervising and restricting within due limits the practice of midwives; and if any woman named in such an order fails to comply with the said rules or to observe any other condition subject to which the exemption under the order is conferred on her, the local supervising authority may revoke the order so far as it relates to her.

(3) This Regulation shall, in its application to Scotland, have effect subject to the following modifications :—

- (a) for references to the Midwives Act, 1902, and to section three thereof shall be substituted references to the Midwives (Scotland) Act, 1915; and to section five thereof;
- (b) for the reference to the Midwives Act, 1902 to 1936, there shall be substituted a reference to the Midwives and Maternity

Homes (Scotland) Acts, 1915 and 1927, and the Maternity Services (Scotland) Act, 1937 ;

- (c) for the references to section one and to section five of the Midwives Act, 1936, there shall be respectively substituted references to section one and to section four of the Maternity Services (Scotland) Act, 1937 ;

- (4) This Regulation shall not extend to Northern Ireland. [1324]

This regulation was originally added by S. R. & O., 1939, No. 978 (now revoked), and was replaced without alteration by S. R. & O., 1939, No. 1681, Article 9.

The local supervising authority is the county or county borough council. See s. 8 of the 1902 Act (11 Statutes 732).

Subsection (1) of s. 1 of the Midwives Act, 1936 (29 Statutes 265), provides that the lying-in period is defined by any rule for the time being in force under s. 3 of the 1902 Act (11 *ibid.*, 730) which constitutes the Central Midwives Board and empowers the Board to make rules.

Subsection (1) of s. 5 of the Midwives Act, 1936 (29 Statutes 269), provides for the payment of compensation to midwives who have surrendered their certificates before the expiration of three years from the commencement of the Act (31st July, 1936).

* * * * *

MIDWIVES (CERTIFYING HOSPITALS AND INSTITUTIONS) ORDER, 1939

S. R. & O., 1939, No. 11

(99559)

January 7, 1939

Whereas it is enacted in the proviso to sub-section (1) of Section 6 of the Midwives Act, 1936, that the provisions of the said subsection shall not apply in the case of a woman who, before the first day of January, 1937, has been certified by the authorities of a hospital or other institution to which the Minister of Health has by order applied the said proviso to have been trained in obstetric nursing and who has given notice in writing to the local supervising authority within the meaning of the Midwives Act, 1902, as amended by any subsequent enactment that she has been so certified :

Now, therefore, the Minister of Health in exercise of his powers under the said proviso and of all other powers enabling him in that behalf hereby orders as follows :—

1. This order may be cited as the Midwives (Certifying Hospitals and Institutions) Order, 1939, and shall have effect as from the date hereof.

2. The Interpretation Act, 1889, applies to the interpretation of this order as it applies to the interpretation of an Act of Parliament.

3. The proviso to subsection (1) of Section 6 of the Midwives Act, 1936, shall be applied to the hospitals and other institutions named in the schedule hereto.

SCHEDULE

Birmingham Maternity Hospital, Loveday Street, Birmingham.

Midwifery Training School, formerly of 83, East Dulwich Grove, London, S.E.

The Essex County Nursing Association, County Nurses' Training Home,

Beachcroft Road, Leytonstone, London, E.11.

The Acton Nursing Institute and Maternity Training School, formerly of Rossmore House, Birkbeck Road, Acton, London, W.

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[1325]

MIDWIVES (CERTIFYING HOSPITALS AND INSTITUTIONS) ORDER (NO. 2), 1939*S. R. & O., 1939, No. 211*

(100696)

February 25, 1939

Whereas it is enacted in the proviso to subsection (1) of Section 6 of the Midwives Act, 1936, that the provisions of the said subsection shall not apply in the case of a woman who, before the first day of January, 1937, has been certified by the authorities of a hospital or other institution to which the Minister of Health has by order applied the said proviso to have been trained in obstetric nursing and who has given notice in writing to the local supervising authority within the meaning of the Midwives Act, 1902, as amended by any subsequent enactment that she has been so certified :

Now, therefore, the Minister of Health in exercise of his powers under the said proviso and of all other powers enabling him in that behalf hereby orders as follows :—

1. This Order may be cited as the Midwives (Certifying Hospitals and Institutions) Order (No. 2), 1939, and shall have effect as from the date hereof.

2. The Interpretation Act, 1889, applies to the interpretation of this order as it applies to the interpretation of an Act of Parliament.

3. The proviso to subsection (1) of Section 6 of the Midwives Act, 1936, shall be applied to the hospital named in the schedule hereto.

SCHEDULE

Crumpsall Hospital, Crumpsall, Manchester, 8.

* * * * *

[1326]

MIDWIVES (CERTIFYING HOSPITALS AND INSTITUTIONS) ORDER (NO. 3), 1939*S. R. & O., 1939, No. 504*

(101376)

April 28, 1939

Whereas it is enacted in the proviso to subsection (1) of Section 6 of the Midwives Act, 1936, that the provisions of the said subsection shall not apply in the case of a woman who, before the first day of January, 1937, has been certified by the authorities of a hospital or other institution to which the Minister of Health has by order applied the said proviso to have been trained in obstetric nursing and who has given notice in writing to the local supervising authority within the meaning of the Midwives Act, 1902, as amended by any subsequent enactment that she has been so certified :

Now, therefore, the Minister of Health in exercise of his powers under the said proviso and of all other powers enabling him in that behalf hereby orders as follows :—

1. This Order may be cited as the Midwives (Certifying Hospitals and Institutions) Order (No. 3), 1939, and shall have effect as from the date hereof.

2. The Interpretation Act, 1889, applies to the interpretation of this order as it applies to the interpretation of an Act of Parliament.

3. The proviso to subsection (1) of Section 6 of the Midwives Act, 1936, shall be applied to the hospitals named in the schedule hereto.

SCHEDULE

The Kingston County Hospital (formerly known as the Kingston and District Hospital), Wolverton Avenue, Kingston-on-Thames.

The Glasgow Royal Maternity and Women's Hospital, Rottenrow, Glasgow, C.4.

* * * * *

[1827]

MIDWIVES (CERTIFYING HOSPITALS AND INSTITUTIONS) ORDER (NO. 4), 1939

S. R. & O., 1939, No. 1240

(102484)

September 20, 1939

Whereas it is enacted in the proviso to subsection (1) of Section 6 of the Midwives Act, 1936, that the provisions of the said subsection shall not apply in the case of a woman who, before the first day of January, 1937, has been certified by the authorities of a hospital or other institution to which the Minister of Health has by order applied the said proviso to have been trained in obstetric nursing and who has given notice in writing to the local supervising authority within the meaning of the Midwives Act, 1902, as amended by any subsequent enactment that she has been so certified :

Now, therefore, the Minister of Health in exercise of his powers under the said proviso and of all other powers enabling him in that behalf hereby orders as follows :—

1. This Order may be cited as the Midwives (Certifying Hospitals and Institutions) Order (No. 4), 1939, and shall have effect as from the date hereof.

2. The Interpretation Act, 1889, applies to the interpretation of this order as it applies to the interpretation of an Act of Parliament.

3. The proviso to subsection (1) of Section 6 of the Midwives Act, 1936, shall be applied to the hospitals named in the schedule hereto.

SCHEDULE

The Exeter Maternity Home, 26 and 27, Southernhay West, Exeter.

The Municipal Maternity Home, 9, Upperton Road, Eastbourne.

The Duchess of Marlborough's Maternity Hospital, Endsleigh Street, W.C.1.

* * * * *

[1828]

MOTOR LICENCES

See ROAD TRAFFIC.

MOUNTAINS

See OPEN SPACES.

NATIONAL REGISTRATION

See CENSUS.

NON-PROVIDED SCHOOLS

See EDUCATION.

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STATUTES

THE NATIONAL SERVICE (ARMED FORCES) ACT, 1939

(2 & 3 GEO. 6, c. 81)

An Act to make provision for securing and controlling the enlistment of men for service in the armed forces of the Crown ; and for purposes connected with the matter aforesaid. [1939] [3rd September 1939.]

* * * * *

10. Arrangements as to civil servants.—(1) In relation to persons employed in the civil service of the State, the powers of the Minister under this Act shall be exercised in accordance with arrangements approved by the Treasury. [1930]

(2) The validity of any notice served, certificate granted, order made, or thing done, in pursuance of this Act shall not be called in question in any court of law on the ground that the powers of the Minister have not been so exercised as aforesaid. [1931]

Subsection (2) of this section protects the Minister of Labour from proceedings based on non-compliance with the requirements of subsection (1). A proclamation calling up (*inter alia*) civil servants is effective whether the Minister of Labour has made arrangements with the Treasury or not, the issue of the proclamation being a power of His Majesty and not of the Minister of Labour

* * * * *

THE LOCAL GOVERNMENT STAFFS (WAR SERVICE) ACT, 1939

(2 & 3 GEO. 6, c. 94)

PRELIMINARY NOTE

The Local Government Staffs (War Service) Act, 1939, which received the Royal Assent on 5th September, is deemed to have come into operation on 1st September, the beginning of the period of emergency. It applies to war service during the present emergency.

The object of the Act is to empower local authorities and certain other authorities to make up the balance of pay to their employees who undertake war service and to preserve their superannuation rights. Teachers are excluded from the part of the Act dealing with superannuation and are dealt with in the Teachers Superannuation (War Service) Act, 1939, and policemen and firemen are excluded entirely and dealt with separately under the Police and Firemen (War Service) Act, 1939. In the Schedule to the Act a list is given of the civil capacities of the persons to whom the Act applies and the appropriate authority who is empowered to make up their pay. This includes clerks of the peace and their deputies, coroners, justices' clerks, probation officers, registration officers, officers of insurance committees, employees of the Central Electricity Board and of joint electricity authorities and teachers and officers of certain other educational establishments. Civil defence workers are excluded from the operation of the Superannuation Acts, unless they were pensionable before the present emergency. A special provision is contained in section 10, whereby a civil defence worker may be a member of a local authority. A circular, No. 1863, dated 11th September, 1939, has been issued by the Minister of Health, explaining the Act.

ARRANGEMENT OF SECTIONS

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An Act to make provision with respect to the war service of clerks and deputy clerks of the peace, coroners and persons employed by local and public authorities and certain undertakers, and to prevent persons being disqualified for membership of a local authority by reason of employment in civil defence service or being disqualified for such employment by reason of such membership. [1932] [5th September 1939.]

Civil Remuneration

1. Payments to make up civil remuneration.—(1) Where a person serving in any capacity specified in the first column of the Schedule to this Act (hereafter in this section referred to as "his civil capacity") ceases so to serve in order to undertake war service, the appropriate authority shall have power to make to or in respect of him such payments as are hereafter in this section provided. [1933]

(2) While any such person is engaged in war service, the appropriate authority may pay to him, or to or for the benefit of his wife or other dependants nominated by him, a sum which shall not exceed the remuneration which he would have received if he had continued to serve in his civil capacity, after deducting therefrom the amount of his war service pay. [1934]

(3) In the event of the notification of the death of any such person whilst engaged in war service, or of his having become missing while so engaged, being given by the authority competent in that behalf, the appropriate authority may, during a period not exceeding twenty-six weeks from the date of the notification, pay to or for the benefit of his wife or other dependants such sum as might have been paid to him under the last preceding subsection if he had been so engaged during that period:

Provided that, in fixing the sum to be paid under this subsection, regard shall be had to any pension or other sum payable to or for the benefit of the wife or other dependants out of public or charitable funds. [1935]

(4) In this section the expression "appropriate authority," in relation to a person serving in any capacity specified in the first column of the Schedule to this Act, means the authority specified in the second column of that Schedule in relation to that capacity. [1936]

The following expressions in this section are defined by section 14 :—
 "war service"; "appropriate authority" (by subsection (4) hereof); "remuneration"; "his civil capacity" (by subsection (1) hereof); "war service pay" and "appropriate authority" and "his civil capacity" in this section.

This section corresponds very closely in its effect to section 1 of the Local Government (Emergency Provisions) Act, 1916 (repealed as to England by S.L.R. Act, 1927, and not printed in Halsbury's Statutes), the distinction being that section 1 of the 1916 Act expressly authorised local authorities to grant leave of absence, which is now unnecessary, and that under the 1916 Act the power was limited to persons serving in His Majesty's Forces and is now extended (see definition of "war service") to persons engaged in the civil defence services.

2. Medical officers of health and sanitary inspectors.—

(1) Where—

(a) a person serving a local authority as a medical officer of health or sanitary inspector ceases so to serve in order to undertake war service; and

(b) one-half of his salary is payable by any other authority or authorities under any enactment to which this section applies ; then, if and so long as some other person is appointed to act temporarily in his absence on war service, that enactment shall have effect as if for references to one-half of the salary of the officer there were substituted references to one-half of the aggregate of—

- (i) any sums actually paid by the local authority under section one of this Act to the person undertaking war service or to or for the benefit of his wife or other dependants ; and
- (ii) the salary of the person appointed as aforesaid. [1937]

(2) This section applies to the following enactments, namely—

- (a) section one hundred and nine of the Local Government Act, 1933 ;
- (b) paragraph 3 of the First Schedule to the Public Health Act, 1936 ; and
- (c) section twelve of the Public Health (London) Act, 1936, or section eighty of the London Government Act, 1939. [1938]

The following expressions are defined by section 14, *post* :—

“ local authority ” ;
“ war service ”.

L.G.A., 1933, section 109 (26 Statutes 364), deals with the payments made by county councils of a sum of one-half the salary to the councils of county districts in respect of a medical officer of health or sanitary inspector.

P.H.A., 1936, Schedule I, para.3 (29 Statutes 543), gives power to county councils and county borough councils to pay one-half the salaries of medical officers of health and sanitary inspectors of port health authorities.

Section 12 of the P.H.(L.)A., 1936, is repealed and replaced by section 80 of the London Government Act, 1939, which gives power to the London County Council to pay one-half the salaries of medical officers of health and sanitary inspectors of metropolitan borough councils and of the port health authority.

Superannuation

3. Superannuation rights.—(1) Where a person serving in any superannuable capacity specified in the first column of the Schedule to this Act (hereafter in this section referred to as “ his civil capacity ”) ceases so to serve in order to undertake war service, the period of his war service shall, for superannuation purposes, be aggregated with the period of his service in his civil capacity and reckoned—

- (a) in relation to any employment in relation to which he is entitled, for the purposes of the Local Government Superannuation Acts, 1937 and 1939, to reckon as contributing service his service immediately before he ceased so to serve, as a period of contributing service ;
- (b) in relation to any employment in relation to which he is entitled, for the purposes of those Acts, to reckon as non-contributing service his service immediately before he ceased so to serve, as a period of non-contributing service ; and
- (c) in relation to any employment to which a special superannuation enactment applies, as a period of service in his civil capacity. [1939]

(2) If any such person—

- (a) dies during his period of war service ; or

- (b) is prevented, in consequence of being permanently incapacitated by injury or disease received or contracted during that period, from resuming service in his civil capacity ; or
- (c) attains during his period of war service the age of compulsory retirement applicable in relation to his civil capacity, or the age at which he would, if he had been serving in that capacity, have become entitled to a superannuation allowance ;

he shall be deemed for superannuation purposes to have been serving in his civil capacity at the time of his death, or at the time when he should have resumed service in that capacity, or at the time at which he attained the age in question, as the case may be. [1340]

(3) Where for the purpose of calculating the amount of superannuation allowance due to any such person, it is necessary to take account of his remuneration in respect of any period of war service which, by virtue of the foregoing provisions of this section is aggregated with the period of his service in his civil capacity, the amount of his remuneration during that period shall be deemed to have been the amount by reference to which the calculation would have been made if he had continued to serve during that period in his civil capacity.

[1341]

(4) Where a person in the employment of an officer of a local authority, and engaged wholly or mainly in the performance of duties relating to the functions of that authority, ceases to be so employed in order to undertake war service, the period of his war service shall be deemed, for the purpose of subsection (6) of section twelve of the Local Government Superannuation Act, 1937, to be a period of service in the employment of an officer of that authority. [1342]

The following expressions in this section are defined by section 14, *post* :—

“ war service ” ;

“ superannuation purposes ” ;

“ special superannuation enactment ” ;

“ remuneration ” and “ his civil capacity ” in this section.

“ Contributing service ” is service in respect of which an employee is required to contribute to the appropriate superannuation fund or any other service which he is entitled to reckon as contributing service under the Local Government and other Officers' Superannuation Act, 1922, or under the Local Government Superannuation Act, 1937, or under the regulations made under the Act of 1937 (see sections 40 (1) and 12 (1) of the Act of 1937 ; 30 Statutes 416, 399).

“ Non-contributing service ” is any service which the employee is not entitled to reckon as contributing service (see sections 40 (1) and 12 (2) of the Local Government Superannuation Act, 1937 ; 30 Statutes 416, 399).

The age of compulsory retirement, under section 7 of the Local Government Superannuation Act, 1937 (30 Statutes 394), is when the employee “ attains the age of sixty-five years ”, but may be extended by consent. It may be otherwise in special or local Acts.

Section 12 (6) of the Local Government Superannuation Act, 1937, provides as follows :—

“(6) When a person who has been for a continuous period of not less than three years in the employment of an officer of a local authority, and engaged wholly or mainly in the performance of duties relating to the functions of that authority, enters or has entered the employment of that or any other local authority and is a contributory employee, there shall be taken into account in reckoning his non-contributing service so much, if any, of that period as the first authority under whom he becomes a contributory employee may, within one year from the date on which he becomes such an employee, determine ”.

4. Payment of contributions.—(1) Where a person serving in any superannuable capacity specified in the first column of the Schedule to this Act (hereafter in this section referred to as “ his civil capacity ”) ceases so to serve in order to undertake war service and, immediately before he ceased so to serve, was liable to make contributions for superannuation purposes in respect of his service in his

civil capacity, the following provisions of this section shall have effect as respects the payment of such contributions during the period of his war service. [1843]

(2) For any part of the period of his war service for which—

- (a) payments are being made to or in respect of him under subsection (2) of section one of this Act ; or
- (b) the amount of his war service pay is not less than the remuneration which he would have received if he had continued to serve in his civil capacity ;

any such person shall contribute to the superannuation fund or other fund out of which a superannuation allowance might become payable to him the like amounts at the like times as if he had continued to serve in his civil capacity, and the appropriate authority shall pay any contribution, which in that event it would have been liable to pay to that fund. [1844]

(3) For any other part of the period of his war service the appropriate authority, if the superannuation allowance to which any such person might become entitled would be payable out of a superannuation fund, may pay in respect of him to that fund the aggregate amount which he would have been liable to contribute to that fund had he continued to serve in his civil capacity, together with any contribution which in that event that authority would have been liable to pay to that fund :

Provided that, for the purpose of any provision of the Local Government Superannuation Acts, 1937 and 1939, or of a special superannuation enactment, relating to the return of contributions on his ceasing to be employed in his civil capacity or dying, any payments made by the appropriate authority under this subsection shall be disregarded. [1845]

(4) The last foregoing subsection shall not apply to a person who ceased to serve as a probation officer (other than a probation officer in the City of London) in order to undertake war service, but during any part of the period of war service of such a person, except such part as is mentioned in subsection (2) of this section, the probation authority shall pay to the superannuation fund established by any rules or scheme relating to the superannuation of such an officer amounts equal to the aggregate of—

- (a) any sums which he would have contributed to the fund if he had continued to serve in his civil capacity ; and
- (b) any contributions which in that event the probation authority would have paid to the fund ;

at the times at which in that event the authority would have paid the last mentioned contributions. [1846]

(5) Contributions payable under subsection (2) of this section by any person engaged in war service—

- (a) shall be recovered by the appropriate authority by way of deduction from any sums which it is authorised or liable to pay to him or to or for the benefit of his wife or other dependants ; and
- (b) if and so far as they are not so recovered, may be recovered by the authority charged with the administration of the

superannuation or other fund, either as a simple contract debt in any court of competent jurisdiction or by way of deduction from any payment by way of superannuation allowance. [1347]

(6) In this section the expression "appropriate authority" has the same meaning as in section one of this Act, except that—

- (a) in relation to any person ceasing to serve in any capacity mentioned in paragraph 5 or paragraph 8 of the first column of the Schedule to this Act, the said expression in this section means the local authority of which he is deemed for the purpose of the Local Government Superannuation Act, 1937, to be a contributory employee; and
- (b) in relation to any person ceasing to serve in any capacity mentioned in paragraph 6 or paragraph 9 of the first column of that Schedule, the said expression in this section means the local authority administering the local Act scheme which applies to him. [1348]

The following expressions in this section are defined by section 14, *post* :—

"war service";
 "superannuation purposes";
 "war service pay";
 "remuneration";
 "special superannuation enactment";
 "probation officer";
 "probation authority"; "civil capacity" and "appropriate authority" in this section.

As to return of contributions, see section 10 of the Local Government Superannuation Act, 1937 (30 Statutes 397). See also section 5, *post*.

5. Return of contributions.—Where, under section ten of the Local Government Superannuation Act, 1937, or any corresponding provision of a special superannuation enactment, a claim is made, by any person who has ceased to serve in any capacity in order to undertake war service, for the return of contributions made by him for superannuation purposes, no period after the date on which the claim is made shall be included in his period of war service for the purpose of the last two foregoing sections. [1349]

The following expressions in this section are defined by section 14, *post* :—

"special superannuation enactment"; "war service"; "superannuation purposes".

6. Decision of questions.—(1) Any question concerning the rights or liabilities under the last three foregoing sections of a person who has ceased to serve in any capacity in order to undertake war service shall be decided in the first instance by the appropriate authority within the meaning of section four of this Act. [1350]

(2) If any such person, or, in a case where any such question has been decided by an authority other than the authority charged with the administration of the superannuation or other fund out of which a superannuation allowance might become payable to him, the authority so charged, is dissatisfied with any decision under the last foregoing subsection, or with any failure to come to such a decision, the question shall be determined by the Minister, and the Minister's determination shall be final :

Provided that the Minister may at any stage in the proceedings on the reference to him, and shall if so directed by the High Court, state in the form of a special case for the opinion of the High Court any question of law arising in those proceedings. [1951]

(8) The foregoing provisions of this section shall not apply in the case of a person who ceased to serve as a probation officer (other than a probation officer in the City of London) in order to undertake war service, and any question concerning the rights or liabilities of any such person under the last three foregoing sections shall be decided in accordance with the rules or scheme relating to the superannuation of such an officer. [1952]

The following expressions in this section are defined :—

“war service” (by section 14) ; “appropriate authority” (by section 4 (6)) ;

“the Minister” (by section 14).

The provisions in this section are the same as for those for decisions on other questions under the Local Government Superannuation Act, 1937, section 35 (30 Statutes 413).

7. Application to persons employed by certain undertakers.—In relation to a person entitled, by virtue of his employment by any undertakers or other persons, to participate in the benefits of a superannuation fund under section five of the Local Government Act, 1937, or under a scheme made under section three of the Local Government Superannuation Act, 1939, the last four foregoing sections shall apply subject to the following modifications—

- (a) service in the said employment shall be deemed to be service in a superannuable capacity specified in the first column of the Schedule to this Act ;
- (b) in relation to any such person, the said undertakers or other persons shall be deemed to be the appropriate authority within the meaning of section four ;
- (c) any payments made to or in respect of any such person by the said undertakers or other persons to supplement his pay in respect of his war service shall be deemed, for the purpose of subsection (2) of section four, to be made under subsection (2) of section one of this Act ;
- (d) in relation to a person entitled as aforesaid by virtue of any such scheme, references to the Local Government Superannuation Acts, 1937 and 1939, or to section ten of the Local Government Superannuation Act, 1937, shall be construed as references to the Local Government Superannuation Act, 1937, as applied by the scheme, or to the said section ten as so applied. [1953]

By section 5 of the Local Government Superannuation Act, 1937 (the word “Superannuation” is omitted, presumably in error, in the King’s Printers’ copy of the present section) (30 Statutes 391) local authorities may with the approval of the Minister admit the employees of statutory undertakers and certain other persons by agreement to participate in the benefits of superannuation, and by section 3 of the Local Government Superannuation Act, 1939, this may be done by means of a scheme submitted to the Minister.

8. Saving for Teachers (Superannuation) Acts.—Nothing in the last five foregoing sections shall apply to any person who, in order to undertake war service, ceases to serve in service which is

contributory service within the meaning of the Teachers (Superannuation) Acts, 1918 to 1937. [1354]

Teachers are dealt with by the Teachers Superannuation (War Service) Act, 1939. The reason that there is a separate Act is that teachers' superannuation is paid out of the vote of the Board of Education and not from any superannuation fund.

Miscellaneous and General

9. Superannuation of persons employed in civil defence service.—(1) Subject to the foregoing provisions of this Act, the employment of any person by a local authority in civil defence service shall not, for superannuation purposes, be deemed to be employment by that authority, unless that person—

- (a) was employed by that authority immediately before the beginning of the period of the present emergency in pensionable service which was civil defence service; or
- (b) is transferred during the said period to civil defence service from some other service under the same authority which was pensionable service, and receives in respect of his employment in civil defence service remuneration not less than that which he would have received if he had not been so transferred; or
- (c) enters the employment of that authority in civil defence service during the said period after ceasing to be employed in service which was pensionable service by some other authority, being a local authority within the meaning of the Local Government Superannuation Acts, 1937 and 1939, or the Local Government Superannuation (Scotland) Acts, 1937 and 1939, and while employed by the first-mentioned authority—
 - (i) is required to devote substantially the whole of his time to duties which are wholly or mainly administrative, professional or clerical; and
 - (ii) receives in respect of his employment remuneration not less than that which he would have received if he had continued to be employed by that other authority as aforesaid. [1355]

(2) In this section the expression “pensionable service”, in relation to a person employed in any capacity by any authority, means service in respect of which he is entitled to participate in the benefits conferred by any enactment or scheme providing for his superannuation as a person employed in that capacity by that authority, not being service which is contributory service within the meaning of the Teachers (Superannuation) Acts, 1918 to 1937. [1356]

The following expressions in this section are defined by section 14, *post*:—“local authority”; “civil defence service”; “superannuation purposes”; “period of the present emergency”; “remuneration”.

As to local authorities under Local Government Superannuation Acts, 1937 and 1939, see section 1 of the Act of 1937 (30 Statutes 387). They include all county, county borough and metropolitan borough councils and joint committees, and councils of county districts having more than 100 employees.

10. Removal of disqualification of persons employed in civil defence service.—Notwithstanding anything in any enactment—

- (a) a person shall not be disqualified for being elected or being a member of a local authority by reason only that he is employed

in civil defence service for reward during the period of the present emergency by or under the direction of the authority, or a committee or sub-committee of the authority, or a board, committee or sub-committee a member whereof is appointed on the nomination of the authority; and

- (b) a person who is or has been a member of a local authority shall not be disqualified for being employed as aforesaid.

[1857]

The following expressions in this section are defined by section 14, *post*:—"local authority"; "civil defence service"; "period of the present emergency".

A person is disqualified from being a member of a local authority by section 59 (1) (a) of the Local Government Act, 1933 (26 Statutes 334) if he holds any paid office or other place of profit under the council, and by section 122 (26 Statutes 371) members of local authorities may not be appointed as officers of the authority.

11. Provision as to persons called out or under training.

—(1) The provisions of Articles 4 to 10 of the Reserve and Auxiliary Forces (Consequential Provisions) Order, 1939, shall not apply with respect to any part of any person's period of service as a person called out which falls during the period of the present emergency. [1358]

(2) The provisions of Article 4 of the Military Training (Consequential Provisions) Order, 1939, shall not apply with respect to any part of any person's period of training which falls within the period of the present emergency. [1359]

(3) Where any person—

(a) at the beginning of the period of the present emergency is serving as a person called out or as a person under training; and

(b) immediately before he was called out or immediately before the beginning of his period of training as the case may be, was serving in any capacity specified in the first column of the Schedule to this Act, or in any capacity by virtue whereof he was entitled under section five of the Local Government Superannuation Act, 1937, or a scheme made under section three of the Local Government Superannuation Act, 1939, to participate in the benefits of a superannuation fund;

he shall be deemed for the purposes of this Act to have ceased to serve in that capacity immediately after the beginning of the period of the present emergency in order to undertake war service. [1360]

(4) In this section the expression "called out" has the same meaning as in the Reserve and Auxiliary Forces (Consequential Provisions) Order, 1939, and the expressions "person under training" and "period of training" have respectively the same meanings as in the Military Training (Consequential Provisions) Order, 1939. [1361]

"Period of the present emergency" is defined by section 14, *post*.

Articles 4 to 10 of the Reserve and Auxiliary Forces (Consequential Provisions) Order, 1939, dated 23rd June, S.R. & O. 1939 No. 719, deal with the civil remuneration and superannuation rights of local government employees under the Reserve and Auxiliary Forces Act, 1939.

Article 4 of the Military Training (Consequential Provisions) Order, 1939, dated 23rd June, S.R. & O. 1939 No. 718, deals with the superannuation rights of local government employees under the Military Training Act, 1939.

12. Exception of police and firemen.—Nothing in this Act shall apply to—

- (a) a member of a police force within the meaning of the Police Pensions Act, 1921 ; or
- (b) a professional fireman as defined by paragraph (2) of section twenty-three of the Fire Brigade Pensions Act, 1925, as amended by any subsequent enactment (whether or not the provisions of that Act as so amended have effect in relation to him), not being a fireman who gave, under subsection (2) of section twenty-four of that Act or under subsection (3) of section seventeen of the Fire Brigades Act, 1938, a written notice that he desired that the provisions of the Local Government and other Officers' Superannuation Act, 1922, or of a local Act scheme should continue to apply to him. [1362]

Police and firemen are dealt with by the Police and Firemen (War Service) Act, 1939.

For the Police Pensions Act, 1921, see 12 Statutes 873.

By section 23 (2) of the Fire Brigade Pensions Act, 1925, " ' professional fireman ' means any member of a fire brigade maintained by a local authority who is wholly and permanently employed on fire brigade duties, and to whom the Police Pensions Act, 1921, does not apply ". The definition is explained and amended by section 17 (1) of the Fire Brigades Act, 1938 (31 Statutes 597). As to the option to come under the Local Government and other Officers' Superannuation Act, 1922 (10 Statutes 863), see section 24 (2) of the Act of 1925 (13 Statutes 1107) and section 17 (3) of the Fire Brigades Act, 1938 (31 Statutes 597).

13. Expenses.—(1) Any expenses incurred by a probation authority under this Act shall be deemed for the purposes of sections five and nine of the Criminal Justice Act, 1925, to be expenses in respect of the salaries of probation officers. [1363]

(2) There shall be defrayed out of moneys provided by Parliament any increase resulting from the operation of this Act in expenditure which is authorised by any enactment to be so defrayed. [1364]

" Probation officer " is defined by section 14, *post*.

14. Interpretation.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them—

" civil defence service " means any service established under the Civil Defence Acts, 1937 and 1939 ;

" local authority " and " local Act scheme " have respectively the same meanings as in the Local Government Superannuation Acts, 1937 and 1939 ;

" the Minister " means the Minister of Health ;

" period of the present emergency " means the period beginning with the first day of September nineteen hundred and thirty-nine, and ending with such day as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of this Act came to an end ;

" probation authority " means, as respects the metropolitan police courts district, the Secretary of State, and as respects any other probation area, the probation committee of that probation area ;

" probation officer " means a probation officer appointed under Part I of the Criminal Justice Act, 1925 ;

“remuneration” means salary, wages and emoluments ;
 “special superannuation enactment” means any of the following enactments or other instruments, namely—

(a) the Asylums Officers’ Superannuation Act, 1909 (as amended by any subsequent enactment) ;

(b) section six of and the First Schedule to the Coroners (Amendment) Act, 1926 ;

(c) a local Act scheme ;

(d) any rules or scheme relating to the superannuation of probation officers made under the Criminal Justice Act, 1925 ; and

(e) the rules regulating the fund known as the Insurance Committee Officers’ Superannuation Fund ;

“superannuation purposes” means, in relation to a person serving in any capacity or ceasing to serve in any capacity in order to undertake war service, the purposes of any enactment, scheme or rules providing for his superannuation as a person serving in that capacity ;

“war service” means service, during the period of the present emergency, in any of the naval, military or air forces of the Crown, any employment during that period which the Minister considers may properly be treated for the purposes of this Act in the same manner as service in those forces, and any employment during that period in civil defence service which is not by virtue of section nine of this Act deemed for superannuation purposes to be employment by a local authority ;

“war service pay,” in relation to the remuneration which any person would have received if he had continued to serve in any capacity specified in the first column of the Schedule to this Act, means his pay (including marriage, family and other similar allowances) in respect of his war service, or, in a case where he ceased to serve not only in that capacity but also in any other such capacity or capacities in order to undertake war service, an amount which bears the same proportion to his pay (including marriage, family and other similar allowances) in respect of his war service as the remuneration which he would have received if he had continued to serve in the first-mentioned capacity bears to the total remuneration which he would have received if he had continued to serve in both or all those capacities. [1865]

(2) The capacities specified in the first column of the Schedule to this Act which in this Act are referred to as superannuable capacities are those specified in paragraph 1, paragraphs 3 to 6 and paragraphs 8 to 15 of the first column of that Schedule. [1866]

The Civil Defence Acts are the Air-Raid Precautions Act, 1937, and the Civil Defence Act, 1939.

“Local authority” is defined by the Local Government Superannuation Act, 1937, section 40 (1), as follows :—

“‘local authority’ means the council of a county, county borough, metropolitan borough or county district, the common council of the City of London, and any other local authority within the meaning of the Local Loans Act, 1875, and includes a joint committee established

by a combination scheme, and any other joint committee appointed under an Act, or a statutory order or statutory scheme, if all the constituent authorities are such local authorities as aforesaid".

See section 34 of the Local Loans Act, 1875 (10 Statutes 253). For the meaning of "Local Act scheme", see section 40 (1) and section 1 (3) (b) of the Act of 1937 (30 Statutes 416, 388).

15. Application to Scotland. [1367]

16. Provision as respects Northern Ireland. [1368]

17. Short title, commencement and extent.—(1) This Act may be cited as the Local Government Staffs (War Service) Act, 1939. [1369]

(2) This Act shall be deemed to have come into operation at the beginning of the period of the present emergency. [1370]

(3) No provision of this Act, except the provisions of the last foregoing section, shall extend to Northern Ireland. [1371]

The period of the present emergency is defined by section 14 as beginning on 1st September, 1939.

SCHEDULE

Sections 1, 3, 4, 7, 14, 15.

CIVIL CAPACITIES TO WHICH ACT APPLIES AND APPROPRIATE AUTHORITY FOR PURPOSE OF SECTION ONE

Civil capacity	Appropriate authority for purpose of section 1
1. Clerk of the peace or deputy clerk of the peace of a county.	The county council, or in the case of the county of London, the standing joint committee.
2. Clerk of the peace of a borough—	The borough council.
3. Coroner — — — — —	The council by whom the coroner's salary is paid.
4. Employee of a local authority otherwise than in war service.	The local authority.
5. Whole-time justices' clerk who, by virtue of subsection (1) of section twenty of the Local Government Superannuation Act, 1937, is deemed for the purposes of that Act to be a contributory employee of a local authority.	The standing joint committee in the case of a clerk, or an employee of a clerk, to county justices, and the borough council in the case of a clerk, or an employee of a clerk, to borough justices.
6. Justices' clerk to whom a local Act scheme applies.	
7. Justices' clerk, not being such a clerk as is mentioned in either of the last two foregoing paragraphs.	
8. Employee of a whole-time justices' clerk who, by virtue of subsection (2) of section twenty of the Local Government Superannuation Act, 1937, is deemed for the purposes of that Act to be a contributory employee of a local authority.	
9. Employee of a justices' clerk to whom a local Act scheme applies.	
10. Probation officer — — — — —	The probation authority.

Civil capacity

Appropriate authority for
purpose of section 1

- | | |
|---|---|
| <p>11. Registration officer who is deemed by virtue of section twenty-seven of the Local Government Superannuation Act, 1937, to be an officer in the employment of a local authority.</p> <p>12. Officer of an insurance committee appointed under the National Health Insurance Act, 1936 (including a committee formed by a combination of insurance committees under section ninety-four of that Act).</p> <p>13. Employee of the Central Electricity Board.</p> <p>14. Employee of a joint electricity authority in relation to which the Local Government Superannuation Act, 1937, has effect as if the authority were a local authority required to maintain a superannuation fund under Part I of that Act.</p> <p>15. Teacher, officer or servant appointed by the managers of a public elementary school maintained but not provided by a local education authority for elementary education.</p> <p>16. Teacher, officer or servant of an institution aided by a local education authority out of the proceeds of any rate.</p> <p>17. Teacher, officer or servant of an educational institution to which it is certified by the Board of Education that it is expedient that section one of this Act should apply notwithstanding any trust affecting the institution.</p> | <p>The local authority.</p> <p>The insurance committee.</p> <p>The Central Electricity Board.</p> <p>The joint electricity authority.</p> <p style="font-size: 3em; line-height: 1;">}</p> <p>The local education authority.</p> <p>The managers or other governing body of the institution</p> |
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[1372]

ORDERS, CIRCULARS AND MEMORANDA

LOCAL GOVERNMENT OFFICERS AND NATIONAL SERVICE

*Circular 1773**January 27, 1939*

SIR,—I am directed by the Minister of Health to refer to two matters in relation to the enrolment of local government officers for National Service about which enquiries have already been addressed to him by individual Councils, and on which it is thought that some general advice may be desired. The first question concerns the degree

of encouragement or discouragement to be given by Councils to their officers wishing to undertake any particular form of service. The second question relates to the possible release from their obligations of officers who already have commitments to H.M. Forces and whose withdrawal from the Council's service in time of national emergency would cause the Council serious difficulty in carrying out the duties laid upon them.

2. As regards the first question, it will be observed that a considerable proportion of the employees of Local Authorities fall within one or other of the Reserved Occupations. Subject to this, the Minister is confident that Councils would desire members of their staffs to take their full share, with other sections of the community, in such forms of voluntary service indicated in the National Service Guide as are not incompatible with their duty as public servants. At the same time it must be borne in mind that many duties in connection with civil defence are being laid upon Local Authorities and that these duties would be of a specially onerous character in time of war.

3. Whilst, therefore, officers and servants of Local Authorities (apart from those in the Reserved Occupations) are not, as such, to be regarded as ineligible for undertaking voluntary service,* it would be well for Councils to arrange that those who desire to enrol in any capacity which may interfere with the full performance of their duty to the Council in time of war should first obtain the permission in writing of the Council. When dealing with such applications, Councils will no doubt take into account the extent to which their various services are likely to be expanded or curtailed in time of war, having regard to the nature of their area, and consider whether the applicants could be dispensed with or replaced if they were withdrawn from the Council's service or became available only for part-time work. Another consideration is the expenditure which may be involved in any replacements, on the assumption that power will be given by the necessary legislation to pay remuneration to the absent members of the staff. In considering the matter generally, Councils will no doubt take the appropriate steps to consult their staff.

4. In order to enable the Minister to deal with the second question and to examine, in consultation with the Service Departments, the possibility of the release from their obligations of officers of Local Authorities who already have commitments to the Royal Navy and the Royal Marines, the Army and Royal Air Force and their auxiliary forces, I am to ask that a list may be furnished to him, *not later than February 20th next*, of those officers of the Council who are in this position and who would occupy key positions in the Council's service in times of national emergency. The list should show, as regards each officer included in it, his position in the Services, the post which he occupies in the Council's service, and the reason (if this is not sufficiently indicated by the description of his civil post) why he is considered to be indispensable to the Council in war time.

I am, Sir, etc.

[1373]

* As regards the air raid precautions services, see A.R.P. Dept. Circular No. 7/1939 dated January 23rd, 1939, and particularly par. 17 thereof.

LOCAL GOVERNMENT EMPLOYEES AND NATIONAL SERVICE*Circular 1808**April 25, 1939*

SIR,—I am directed by the Minister of Health to refer to Circular 1773 dated the 27th January last, and to state that a number of enquiries have been addressed to him regarding the pay and pensionable position of employees of local authorities who enrol in the various branches of National Service with the consent of their authority. I am to inform you that legislation is being prepared, for introduction in the event of an emergency, which would provide that a local authority may grant leave of absence during the emergency to an employee to enable him to serve in H.M. Forces or in civil defence, and to make up the difference between his new pay and the remuneration which he would have received if he had remained in the actual service of the local authority. The position of the employee as regards superannuation would be safeguarded and the emergency service would be reckonable for superannuation purposes. Provision on similar lines would be made for an employee of a local authority who remains with the authority but serves in the emergency on civil defence.

Another question relates to the position of employees on their return to civil duty; it has been suggested that local authorities should give such assurance as they can that the employees would be reinstated in their original employment. Whilst it is appreciated that the question of continued employment after return from service is a matter for the local authority concerned, the Minister wishes it to be understood that they might properly keep open the places of their employees who, with their permission, undertake full time National Service.

I am, Sir, etc. [1874]

LOCAL GOVERNMENT EMPLOYEES AND NATIONAL SERVICE*Circular 1817**May 10, 1939*

SIR,—I am directed by the Minister of Health to refer to Circular 1773, dated 27th January last, on the subject of the enrolment of local authorities' staff in the various branches of National Service, and to draw the attention of your Council to a statement made on the 27th April by the Minister of Labour regarding the modification of the Schedule of Reserved Occupations.

The Minister of Labour then announced that "the Schedule of Reserved Occupations (which reserves men in certain occupations for work in industry or in trades in the Forces or Civil Defence Services) has been examined to see how far its application in peace-time might be modified to give the maximum of assistance in the recruitment of men for general service in the Territorial Army, the other Auxiliary Forces, and the Civil Defence Services. As a result it has been decided that men in a large number of occupations hitherto reserved should now be free to volunteer for any service."

The list of occupations in question includes executive and clerical staff of local authorities not otherwise specifically reserved by reason of occupation. Hitherto, as the Council are aware, they were in the reserved list if over the age of 25. It will be seen that members of

local authorities' staffs of appropriate ages who have professional or technical qualifications are still in reserved occupations if the professional or technical class itself is still reserved. For example, a professional engineer in the employment of a local authority who is over 25 would still be in a reserved occupation by virtue of his professional qualifications and only eligible for enrolment in his professional capacity.

The general effect, so far as local authorities are concerned, of the revision of the Schedule of Reserved Occupations is to make eligible for recruitment such of their employees as do not possess certain technical or professional qualifications. Local authorities will, however, no doubt wish to have the Minister's advice as to the extent to which, under the new conditions, they could properly give their consent to employees of various categories desiring to enrol. Generally, the views expressed in paragraphs 2 and 3 of Circular 1773 still hold, but, in the light of the revision of the Schedule, local authorities should be prepared to give consent freely to enrolment in the case of employees engaged in ordinary clerical duties (e.g., dealing with particular tasks in accordance with well defined regulations; scrutinising and checking straightforward accounts; preparing material for reports, accounts and statistics in prescribed forms; supervising routine work). In the case of officers over the age of, say, 25, engaged on higher executive or administrative duties, whose replacement would be difficult if the services (especially the emergency services) for which the authority are responsible are to be efficiently conducted, the considerations set out in paragraph 3 of Circular 1773 should still govern the authority's decision as to granting or withholding consent.

I am, Sir, etc.

[1875]

MILITARY TRAINING ACT, 1939 RESERVE AND AUXILIARY FORCES ACT, 1939

Circular 1827

June 2, 1939

SIR,—I am directed by the Minister of Health to state that enquiries have been addressed to him by Local Authorities as to the position in regard to the pay and superannuation of such of their employees as may be affected by either of the above-mentioned Acts.

I am to append for the information of your Authority a copy of a Question and Answer in the House of Commons, which indicates the arrangements proposed to be made as regards the Civil Service. It appears to the Minister that there would be advantage if the principle of those arrangements, in so far as they are applicable, were followed by Local Authorities in relation to their employees.

It will be observed that in the case of Civil Servants called up for training under the Military Training Act, 1939, there will be no issue of civil pay in respect of the period of training, and accordingly it is not intended, in the Order in Council to be made under that Act, to authorise payments by Local Authorities to their employees in respect of their period of training.

It will be noted, however, that employers are required to reinstate employees called up under the Military Training Act, 1939, on the

termination of the training period under conditions not less favourable to the employees than those which would have been applicable to them had they not been called up. In order to give effect to this requirement, Local Authorities should take the period of training into account for the purpose of increment in the case of employees who are on an incremental scale of salary or wages.

In the case of Civil Servants called out for service under the Reserve and Auxiliary Forces Act, 1939, it will be seen that the Government propose to allow, for the whole period of absence, the balance of civil pay so as to bring up the total emoluments, service and civil, to the level of civil pay. It is accordingly proposed that the Order in Council to be made under that Act shall empower Local Authorities to adopt the same course as regards such of their employees as are called out for service. The period of absence should be taken into account for purposes of increment in the same way as the period of training under the Military Training Act, 1939.

It is proposed to make provision by Orders in Council under both Acts as to the superannuation of employees of Local Authorities affected, and a further communication on this point will be sent as soon as practicable.

I am, Sir, etc.

HOUSE OF COMMONS

MILITARY TRAINING

CIVIL SERVANTS AND LOCAL AUTHORITIES' EMPLOYEES

25th May, 1939

Mr. McENTEE asked the Financial Secretary to the Treasury whether he is aware that many Local Authorities and private firms are considering what payment they will make to Territorials and Militiamen who are called up for service or training; and, as they will be guided largely by Government policy, will he state whether it is proposed to pay to permanent civil servants, to temporary civil servants, and to permanent and temporary industrial workers in Government establishments, the difference between the value of their service pay and allowances and their normal weekly salary or wage in the Civil Service or Government establishment?

Captain CROOKSHANK.—Generally, the arrangements will be as follows. All civil servants called up for service in accordance with the provisions of the Reserve and Auxiliary Forces Bill will be allowed for the whole period of absence the balance of their civil pay to bring up their total emoluments, service and civil, to the level of their civil pay. Subject to the exigencies of the public service, their position in the matter of their normal leave allowance will be unaffected.

In the case of civil servants called up for military training under the Military Training Bill the period of absence will reckon for purposes of increment and superannuation but there will be no issue of civil pay in respect of this period.

The necessary detailed instructions, which will include the bases of assessment of the various emoluments, will be promulgated at an early date and I will send a copy of them to the Hon. Member. [1376]

MILITARY TRAINING ACT, 1939
RESERVE AND AUXILIARY FORCES ACT, 1939

Circular 1835

July 7, 1939

Sir,—I am directed by the Minister of Health to refer to Circular 1827 dated 2nd June, and to state for the information of your Authority that the Military Training (Consequential Provisions) Order, 1939, and the Reserve and Auxiliary Forces (Consequential Provisions) Order, 1939, have now been made under the above-mentioned Acts, respectively. Copies of these Orders can be purchased directly from H.M. Stationery Office or through any bookseller.

· *Pay*

As indicated in Circular 1827, no provision has been made in the Military Training (Consequential Provisions) Order, 1939, authorising payments by Local Authorities to their employees in respect of their period of training.

Article 7 of the Reserve and Auxiliary Forces (Consequential Provisions) Order, 1939, empowers Local Authorities and certain other Authorities mentioned in the Table to the Article to pay an employee who is called out a sum not exceeding the difference between his service pay (including marriage, family and other similar allowances) and the remuneration which he would have received if he had remained in his civil employment. The employee is deemed to be absent on leave—with pay if payments are being made to him under this Article, or without pay if no such payments are being made. To assist Local Authorities in calculating deductions in respect of service pay and allowances, the arrangements which the Government have adopted as regards Civil Servants similarly called out are set out in the Appendix to this Circular.

Questions have been addressed to this Department as to the possibility of some liability to pay civil remuneration attaching to Local Authorities in view of the contractual relations between them and their employees, and I am therefore to draw your attention to the Military Training (Adjustment of Contracts) Regulations, 1939, and the Reserve and Auxiliary Forces (Adjustment of Contracts) Regulations, 1939, made by the Minister of Labour under the respective Acts. As, under those regulations, Local Authorities in common with other employers are relieved of any obligation to pay remuneration, it will be appreciated that in the absence of specific authority in the Military Training (Consequential Provisions) Order, 1939, Local Authorities will not be empowered to make payments to any members of their staff who may be called up under the Military Training Act, 1939, in respect of their period of training or payments in excess of the limits laid down by the Reserve and Auxiliary Forces (Consequential Provisions) Order, 1939, to persons called out under the Reserve and Auxiliary Forces Act, 1939. I am, however, to point out, as was stated in reply to a recent question in Parliament, that there is nothing in the last-named Order to prevent a local authority, in the exercise of its discretion, paying full civil pay in respect of so much of the period of calling out for service as is to be regarded as part of the man's normal annual leave.

Superannuation

Article 4 of the Military Training (Consequential Provisions) Order, 1939, is designed to ensure that an employee of a Local Authority to whom the Local Government Superannuation Act, 1937, the Asylums Officers' Superannuation Act, 1909 (as amended by any subsequent Act) or a local Act scheme applies, shall remain superannuable while he is undergoing training, and that his absence during the period of training shall not in any way prejudice the rights that he would otherwise have enjoyed under the code applicable to his case. It provides that the period of training is to be reckoned as a period of local government service as if superannuation contributions had been made. No contributions, however, will be payable by the man during his period of training, but, where there is a superannuation fund, the employing authority is empowered (though not required) to pay into it the man's contributions and their own equivalent contributions. Any employee's contributions paid by the employing authority under this power are to be disregarded if the employee subsequently becomes entitled to a return of contributions. The provisions of this Article, subject to certain modifications, are applied to the persons mentioned in the Schedule to the Order.

Under Article 21 the provisions of Article 4 apply to a person who has been ordered to undergo a continuous period of six months' training of a civil character and under civilian control for work of national importance provided or approved under Section 3 (8) of the Act.

Article 10 of the Reserve and Auxiliary Forces (Consequential Provisions) Order, 1939, similarly preserves the superannuation rights of persons called out under the Act who are subject to one or other of the three codes of superannuation mentioned above. It provides that the period of service when called out is to be reckoned as a period of local government service as if superannuation contributions had been paid, although no contributions will be payable by an employee if he is "absent on leave without pay".

In the case of an employee "absent on leave with pay," the normal contributions will be made both by the employee and by the employing authority. An obligation is put on the employee in such cases to make his contributions, which are recoverable by way of deduction from the payments made to him by the authority, or otherwise.

In the case of an employee "absent on leave without pay," the employing authority, where there is a superannuation fund, is empowered (but not required) to pay into it the man's contributions and their own equivalent contributions. Any employee's contributions paid by the employing authority under this power are to be disregarded if the employee subsequently becomes entitled to a return of contributions.

The provisions of Article 10, subject to certain modifications, are applied to the persons mentioned in the First Schedule to the Order.

Compensation

Articles 17 and 29 of the respective Orders preserve compensation rights by making the period of training or military service count as if it were a like period of local government service with the normal civil pay.

I am, Sir, etc.

APPENDIX

POSITION OF CIVIL SERVANTS CALLED OUT FOR SERVICE UNDER THE
RESERVE AND AUXILIARY FORCES ACT, 1939

In accordance with the statement made in the House of Commons on the 25th May, 1939, a copy of which was appended to Circular 1827, Government employees of all categories who are called out under the Reserve and Auxiliary Forces Act, 1939, will be paid the balance of their civil pay during the whole period of absence.

This balance of civil pay will be assessed on the basis set out in a statement (reproduced below), which is incorporated with a Treasury Circular indicating the Service emoluments to be taken into account in, or excluded from, the calculation. In addition it has been decided that bounties received by members of the Territorial Army and certain Reserve Forces who are called out will not be taken into account in assessing the balance of civil pay. It should be explained that the Treasury arrangements relate in terms to Civil Servants serving with His Majesty's Forces during a national emergency (though they are to be applied to men called out under the Reserve and Auxiliary Forces Act, 1939, in peace time) and therefore deal with certain Service emoluments which would not be payable in present circumstances.

Statement reproduced from Treasury Circular :—

NAVY

The Service emoluments to be taken into account or excluded, in calculating the balance of civil pay are set out below :—

(a) Officers (including Warrant Officers).

The Service emoluments to be taken into account include Full Pay, Marriage Allowance (see note (1) below), Dependants' Allowance, Specialist Allowances, Duty Allowances (other than casual extra pay), Command Money, Submarine Allowance, Flying Pay and Observers' Pay, *but not* casual extra pay, Hard Lying Money, Climate Pay, Field Allowance, Lodging Money, Provision Allowance, Servants' Allowance, Entertaining Allowance or Colonial Allowance.

In the event of Retired Officers who are Civil Servants being re-employed, the 25 per cent. bonus allowed on Full Pay will be excluded from Service emoluments.

When Retired Pay and 25 per cent. thereon is drawn, the Bonus will be excluded from Service emoluments for the purposes of this Circular.

(b) Ranks and Ratings below Warrant Rank.

(1) The Service emoluments to be taken into account include Substantive Pay (including Difference of Pay where paid), Non-substantive Pay, Duty Allowances, Submarine Pay, Flying Pay, Store Allowances, Good Conduct Pay, Marriage Allowance (see note (1) below), Dependants' Allowance, and in the case of certain Royal Fleet Reservists, Retainer.

(2) The following emoluments *will not* be taken into account :—Casual extra pay, Hard Lying Money, Climate Pay, Tropical Allowance, Field Allowance, Extra Pay for living under canvas, Lodging Money, Provision Allowance, Leave Allowance, Grog Money, Kit Upkeep Allowance, Clothing, Bedding or Outfit Gratuities, or Bounty or Gratuity paid to Reservists on mobilisation.

NOTE (1).—If an officer or rating or his family is in occupation of official married quarters, the value of the quarters will be taken into account in calculating the balance of his civil pay. For this purpose the full amount

of marriage allowance for which he would be eligible if the quarters were not available will be regarded as a service emolument.

(2) Disciplinary stoppages from Service emoluments will be disregarded in the calculation of balance of civil pay, i.e., the service emoluments will be taken at the full rate of the rank without deducting the amount of the stoppages.

ARMY

Officers.

Service emoluments include all pay, engineer, corps, etc., pay, additional pay (other than casual), command pay, allowances (other than as explained below), Dependents' Allowance *but not* Colonial Allowance, Field Allowance or Coast pay.

In the event of retired regular officers who are Civil Servants being re-employed, the 25 per cent. bonus allowed on full army pay will be excluded from service emoluments.

When retired pay and 25 per cent. is drawn, the retired pay only will be regarded as pay for the purpose of this circular.

Other Ranks.

Service emoluments include all pay, additional pay, proficiency pay, long service and good conduct pay, allowances (other than as explained below), Family Allowance, Dependents' Allowance, *but not* Colonial Allowance, Field Allowance or Coast pay.

Disciplinary stoppages from service emoluments will be disregarded in the calculation of balance of civil pay, i.e., the service emoluments will be taken at the full rate of the rank or appointment without deducting the amount of the stoppage.

Allowances and Issues in kind.

Every officer or soldier, in addition to Army pay, receives in respect of himself (but not necessarily in respect of his family) provision in kind for lodging, fuel and light, rations and clothing (soldiers only) or an allowance in lieu. Such emoluments will not be included in service emoluments. The lodging, fuel and light and furniture allowance at married rates drawn by a married officer when living with his family or such allowances (or the consolidated rate of family lodging allowance) drawn in respect of his family when he is necessarily separated from them will, however, be included in his service emoluments.

If an officer and his family is in occupation of a married quarter, the value of the quarter will be taken into account in calculating the balance of his civil pay and this value will be assumed to be the amount of the married allowances for which he would be eligible if the quarters were not available.

When the family allowance issuable to a soldier or to his family is reduced in consequence of the allotment of married quarters, the full rate of allowance will be regarded as a service emolument for the purpose of assessing balance of civil pay.

In cases where Indian rates of Army pay are drawn special instructions will be issued as to the amount to be included in "service emoluments."

ROYAL AIR FORCE

The service emoluments to be taken into account or excluded, in calculating the balance of civil pay, are set out below.

1. *Officers.*—The service emoluments to be taken into account include Full Pay, Additional Pay, Command Pay, *but not* Colonial Allowance, Field Allowance, Entertainment Allowance, or the gratuity on embodiment payable to Auxiliary Air Force officers. See also paragraph 4 below as to allowances of married officers.

2. *Airmen.*—(a) The service emoluments to be taken into account fall into two groups:—

- (i) The first includes Substantive Pay (including Progressive Pay whether drawn in a Substantive or Acting Rank,) Good Conduct Pay, Physical Training Instructors' Pay, Mates Duty Pay, Mental Nursing Orderlies' Pay, Torpedomen's Pay, Family Allowances and Dependents' Allowance. (Changes in these will be notified currently, subject, however, to paragraph 3 below.)
 - (ii) The second group includes the following additional service emoluments—Air Gunners' Pay, Air Observers' Pay, Flying Bounty, Messing N.C.O.'s Allowance, Service Police Pay, Schoolmasters' Pay, Crew Pay, Telephone Operators' Pay, Bonus to Drivers (Petrol and Winch), Duty pay for automatic control duties, and Flying Instructional Pay. (Changes in these will be notified quarterly.)
- (b) The following emoluments *will not* be taken into account. Duty Pay of Armoured Motor Boat Crew, Interpreters' Pay, Sanitary Duties Pay, Trumpeters' Pay, Parachute Packers' Pay, Diving Pay, Hard Lying Money, Colonial Allowance, Field Allowance, or the Gratuity on embodiment payable to Auxiliary Air Force airmen.

3. *Disciplinary stoppages* from service emoluments will be disregarded in the calculation of balance of Civil Pay; i.e. service emoluments will be notified under paragraph 2 (a) as though the stoppage had not been made. Any withholding of bonus from drivers (petrol and winch) in consequence of accidents or damage, etc., for which they are held to blame will be similarly disregarded.

4. *Allowances and Issues in Kind*.—Every officer and airman, in addition to pay and allowances as above, receives in kind, in respect of himself, lodging, fuel and light, rations and clothing (airmen only) or allowances in lieu. An officer also receives the services of a batman or an allowance in lieu, and in certain circumstances an outfit allowance. These personal issues or allowances will not be included in the service emoluments which will be taken into account for the purpose of calculating the balance of civil pay. Any allowances for lodging, fuel and light, or furniture drawn by a married officer in respect of his family, or in respect of himself and his family if he is not separated from them by the exigencies of the service, will, however, be included in service emoluments for this purpose.

If an officer or his family is in occupation of a married quarter, the value of the quarters will be taken into account in calculating the balance of his civil pay, and this value will be assumed to be the amount of the "married" allowances for which he would be eligible if the quarters were not available.

When the family allowance issuable to an airman or to his family is reduced in consequence of the allotment of married quarters the full rate of allowance will be regarded as a Service emolument for the purpose of assessing balance of civil pay.

5. In the event of retired regular officers who are Civil Servants being re-employed, the 25 per cent. bonus allowed on full Royal Air Force pay will be excluded from service emoluments. When retired pay and 25 per cent. is drawn the retired pay only will be regarded as pay for the purpose of this circular.

6. In cases where the pay of an officer or airman is drawn at *Indian rates* special instructions will be issued as to the amount to be included in service emoluments. [1877]

CASES

Transfer of Officers—Compensation—Transfer of Employee of London County Council Tramways to London Passenger Transport Board—Weekly Servant—Right to and Assessment of Compensation—Consideration of Earnings since Dismissal—London Passenger Transport Act, 1933 (c. 74), s. 73, Schedule 14, paragraph 4 (e).

Applicant was employed as a blacksmith by the London County Council in connection with their tramway undertaking from 30th April, 1928, until 25th November, 1931, when he was given a week's notice. He was unemployed until 25th April, 1932, when he was again employed at his old job. On 1st July, 1933, he passed, by virtue of the London Passenger Transport Act, 1933, into the employ of respondent board, and thereafter continued doing the same work until 6th January, 1937, when he was dismissed. His dismissal occurred, not through any fault of his own, but because, owing to the changing over from tramcars to trolleybuses, there was no further work for him. Applicant commenced arbitration proceedings, claiming that, as he was in the employ of respondent board on 12th March, 1931, he was, by s. 73 of the Act of 1933, entitled to compensation for having lost his employment. It was contended for respondent board (i) that s. 73 did not apply to applicant because he had not been continuously employed by the London County Council from 12th March, 1931, to 1st July, 1933, and (ii) that he had been put in no worse a position by the passing of the 1933 Act, in that he had always been subject to a week's notice, and that, therefore, he was not entitled to compensation. It was contended for applicant that the arbitrator, in assessing any compensation due, was not, entitled to take into consideration any earnings the applicant had made in other employment subsequent to his discharge by respondent board :—

Held : (i) the Act states in plain terms that it applies to persons employed on 12th March, 1931, and 1st July, 1933, and the court has no power to read into those plain words a qualification that the employment must be continuous throughout the time between those two dates ;

(ii) the mere fact that a man can be discharged at a week's notice does not take him out of the definition of "an existing servant," or out of the Act ;

(iii) the arbitrator has to consider all the circumstances of the case with the object of acting fairly between the parties, and one of the matters he must consider is what applicant has been earning since his dismissal.—*Re PERRY AND LONDON PASSENGER TRANSPORT BOARD'S ARBITRATION*, [1939] 2 All E. R. 421 ; *sub nom. PERRY v. LONDON PASSENGER TRANSPORT BOARD*, 160 L. T. 478 ; 83 Sol. Jo 478 ; 37 L. G. R. 387 ; Digest Supp. [1878]

OPEN SPACES

STATUTES :—

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STATUTES

THE ACCESS TO MOUNTAINS ACT, 1939

(2 & 3 Geo. 6, c. 30.)

INTRODUCTORY NOTE

THIS Act is of a somewhat novel character. Its object, as stated in its long title, is to secure to the public access to mountains, moorlands, and certain other land, and the purpose of securing such access appears from

s. 1 (1) to be air and pedestrian exercise. Indeed it is clear from s. 6, which sets out a long list of acts which persons obtaining such access are not permitted to do, that no other purpose is intended.

The land to which the Act is to apply is land which in the opinion of the Minister of Agriculture and Fisheries is mountain, moor, heath, down, or cliff (s. 2 (1)) and as to which an Order has been made by the Minister applying the Act thereto (s. 1 (2)). Such an Order may be made on the application of (a) the owner of the land, (b) a local authority, or (c) any organisation approved by the Minister (s. 3 (1)), and may be subject to limitations and conditions (s. 1 (3)). Certain land is exempted from the Act altogether, such as land covered by buildings, agricultural land, parks, gardens, golf courses, etc. ; see s. 2 (2).

Special provisions are made in s. 8 for the protection of owners and occupiers of, and persons having an interest in, land to which the Act is applied. Thus their rights in respect of the use of the land are not to be prejudiced, nor is there any obligation to provide protection against any danger from quarries, mines, shafts, wells, etc., nor in case of injury are they to be under any greater liability than they would have been under if the persons allowed to have access to the land had been trespassers.

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An Act to secure to the public access to mountains, moorlands and certain other land. [1379] [18th July, 1939]

Whereas it is desirable to secure to the public access to mountain, moor land and certain other land, subject to proper provisions for preventing any abuse of such access : [1380]

1. Persons not to be prevented from walking on land to which this Act applies.—(1) Subject to the provisions of this Act, no owner or occupier of, or person having an interest in, land to which this Act applies shall be entitled to exclude any person from entering or being on the land, on any day between one hour before sunrise and one hour after sunset, for the purpose of air and pedestrian exercise so long as he—

(a) observes any limitations and conditions specified in relation to the land in an order made by the Minister of Agriculture and Fisheries (in this Act referred to as “the Minister”) under section three of this Act ;

- (b) does not contravene any direction given in relation thereto by an order made by the Minister under section five of this Act ; and
- (c) does not contravene in relation thereto any of the provisions specified in section six of this Act :

Provided that this subsection shall not have effect in the case of land which is excepted land within the meaning of section two of this Act.

[1381]

A person having an interest in land includes a person entitled to sporting rights thereover ; see s. 12 (3), *post*.

(2) An order may be made by the Minister, under and subject to the provisions of section three of this Act, applying this Act to any land of a kind mentioned in subsection (1) of the next succeeding section, and the land to which this Act applies shall be all land which is for the time being included in the maps to be attached under this Act to orders so made and is shown thereon as being such land. [1382]

(3) An order made under section three of this Act may specify limitations and conditions to which the application of this Act to any land is to be subject, including in particular, but without prejudice to the generality of this provision, limitations and conditions having the effect of prohibiting persons from entering at particular times upon land to which this Act applies or from entering upon particular areas in such land. [1383]

(4) An order made under section three of this Act may specify or describe places for entry on land to which this Act applies, and may provide that subsection (1) of this section shall not have effect as respects persons entering thereon elsewhere than at those places. [1384]

2. Kinds of land to which this Act may be applied, and excepted land.

—(1) The kinds of land as to which an order applying this Act thereto may be made shall be land which in the opinion of the Minister is mountain, moor, heath, down or cliff. [1385]

(2) The following land shall be excepted land, that is to say,—

- (a) land covered by buildings or the curtilage thereof, or developed or used, or in process of development, for residential, commercial, industrial, burial ground or sewage disposal purposes, or for the purpose of making, storing, keeping or testing weapons, projectiles or explosives, and land within such a distance from any land or premises used for any of the said purposes that access by the public thereto would involve interference with the privacy of the land or premises, or danger from or to the carrying on of any of the said purposes ;
- (b) agricultural land, that is to say, land used as arable, meadow or pasture ground, or for the purpose of poultry farming, market gardens, nursery grounds, orchard or allotments, including allotment gardens within the meaning of the Allotments Act, 1922, so however that a tract of mountain, moor, heath, down or cliff, shall not be treated as pasture ground for the purposes of this paragraph by reason only of the fact that sheep or cattle graze thereon ;
- (c) land used for a plantation or a wood or for the growth of saleable underwood ;

- (d) land used for the purpose of a park, garden or pleasure ground or otherwise for the amenity or convenience of a dwelling-house ;
- (e) land used for the purpose of a golf course, race-course, training gallop, sports ground, recreation or pleasure ground, shooting range, or aerodrome ;
- (f) land vested in or under the control of a local authority (including any authority having power to levy a rate as defined for the purposes of the Rating and Valuation Act, 1925, or for whose expense a precept may be issued for the levying of such a rate, and any combination or joint committee of any such authorities as aforesaid), and used for the purpose of a park, open space, playing field, or for any similar purpose, and land acquired by such an authority for any such purpose ;
- (g) land developed or used, or in process of development, for quarrying or mining by means of open working, for the taking of stone, sand, gravel, clay, chalk, or other material, for boring, well sinking, shaft sinking, or other excavation, or for a railway (including a light railway) or tramway, and land within such a distance from any land or premises used for any of the said purposes that access by the public thereto would involve interference with the privacy of the land or premises or danger from or to the carrying on of any of the said purposes ;
- (h) land to which section one hundred and ninety-three of the Law of Property Act, 1925, for the time being applies.

[1386]

For the Allotments Act, 1922, see 1 Statutes 303.

For the Rating and Valuation Act, 1925, see 14 Statutes 617.

For s. 193 of the Law of Property Act, 1925, see 15 Statutes 371.

As to the land referred to in par. (d), see *Re Ripon (Highfield) Housing Order*, 1938, [1939] 2 K. B. 838 ; ([1939] 3 All E. R. 548 ; Digest Supp. decided on similar words in s. 75 of the Housing Act, 1936 (29 Statutes 622)).

(3) Any public department may, subject to the approval of the Treasury, give notice to the Minister that it appears to them to be expedient that this Act should have effect in relation to any land which is under their control, or vested in them for public purposes or for the public service, in like manner as if this Act had bound the Crown, and, where a notice is so given, this Act shall have effect accordingly until the notice is withdrawn by a subsequent notice given to the Minister by the department.

This subsection shall have effect in relation to land under the control of, or vested in, the Minister with the substitution, for references to such a notice as aforesaid, of references to a declaration made by him.

[1387]

3. Provisions as to making, variation and revocation of orders as to application of this Act.—(1) An order applying this Act to land may be made on the application—

- (a) of the owner of the land, that is to say, the person entitled, otherwise than by virtue of powers vested in him as a mortgagee, to dispose of the fee simple thereof ;
- (b) of the council of any county, of any borough, or of any urban district having a population according to the last published census of more than twenty thousand ; or

- (c) of any organisation deemed by the Minister sufficiently representative of the persons likely to be benefited by the application of this Act to the land ;

and not otherwise :

Provided that, to an application made by the owner of land of which another person is the occupier, or in which any other person has an interest not capable of being bound or over-reached by a disposition made by the owner thereof, the consent of the occupier, or of that person, as the case may be, shall be requisite. [1388]

(2) An application for such an order shall describe by reference to a map the land to which it is proposed that this Act should be applied by the order. [1389]

(3) An application for such an order shall give particulars of any limitations and conditions which it is proposed that the order should specify, and of any provisions proposed to be included in the order by virtue of subsection (4) of section one of this Act. [1390]

(4) At least one month before submitting an application for such an order to the Minister, the applicant shall cause to be published, in such manner as the Minister may direct, a notice of the applicant's intention to apply for such an order—

- (a) specifying a place where the application and the map required by subsection (2) of this section may be inspected and where copies of the particulars required by subsection (3) thereof may be obtained, and specifying the price (being a price approved by the Minister) at which such copies will be supplied ; and
- (b) stating that the applicant is prepared to receive and consider any objection which may be made to him in writing within such period (not being less than one month) after the date of the publication of the notice as may be specified therein ;

and shall serve a copy of the notice on the owner of the land to which this Act is proposed to be applied (if not the applicant) and on such other persons as the Minister may direct. [1391]

The Minister is the Minister of Agriculture and Fisheries ; see s. 1 (1) (a), *ante*.

(5) When submitting the application to the Minister, the applicant shall transmit to him any objection made to the applicant in writing before the end of the period specified in the notice, other than an objection which has been withdrawn, and the Minister shall consider any such objections, and may thereafter, and after holding such inquiries (if any) as he thinks fit, make an order in accordance with the application, with or without modification, if it appears to him to be expedient so to do having regard to all the circumstances, including the extent to which access by the public to the land to which the application relates has been allowed in the past :

Provided that—

- (a) where an objection to the application has been duly made by any person appearing to the Minister to be affected thereby, and is not withdrawn, the Minister, unless he considers the objection to be frivolous or irrelevant, shall, before making an order, cause a public local inquiry to be held with respect to the objection (at which the applicant and the objector and any other person deemed by the person holding the inquiry to be sufficiently interested

shall be entitled to appear and to be heard), and shall consider the report of the person holding the inquiry ;

- (b) an order shall not apply this Act to any land not included in the land shown on the map referred to in the application as being land to which this Act is proposed to be applied ; and
- (c) if the Minister is of opinion that material depreciation of the capital or rental value of the land to which the application relates, or material loss or damage to the owner or occupier thereof or to any person having an interest therein, would be caused by the making of an order in accordance with the application without modification, the Minister shall make such modifications as are in his opinion necessary in order to prevent such depreciation, loss or damage, or, if it is in his opinion impracticable so to do, shall refuse to make an order. [1892]

(6) An order made under this section may be varied or revoked by an order made by the Minister in accordance with the subsequent provisions of this section. [1893]

(7) In relation to a varying order providing for the application of this Act to land, subsections (1) to (5) of this section shall have effect as they have effect in relation to an original order so providing. [1894]

(8) In relation to a revoking order, or a varying order not providing for the application of this Act to land, subsections (1), (3), (4) and (5) of this section (except, in the case of a revoking order, subsection (3) and paragraph (a) of subsection (4)) shall have effect with the substitution, for references to the application of this Act to land, of references to the revocation or variation and, for references to the particulars required by subsection (3), of references to particulars of any variation applied for :

Provided that the persons by whom an application may be made shall include any person who is an occupier of, or has an interest in, any of the land to which this Act for the time being applies by virtue of the order proposed to be revoked or varied, and who claims that the revocation or variation is requisite in order to prevent such depreciation, loss or damage as aforesaid, or in order to prevent the continuance of acts which are offences under this Act, and if the Minister is of opinion that a revocation or variation is so requisite, he shall make a varying order giving such directions as are in his opinion necessary in order to prevent such depreciation, loss or damage, or the continuance of such acts, or, if it is in his opinion impracticable so to do, shall make a revoking order. [1895]

(9) The provisions of subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1938, shall apply to any inquiry under this section as they apply to local inquiries under that section, subject to the following modifications, that is to say—

- (a) for references to a department, there shall be substituted references to the Minister ;
- (b) for the reference in proviso (b) to subsection (2) to the property of a local authority, there shall be substituted a reference to land to which the application giving rise to the inquiry relates ; and

- (c) subsection (4) shall have effect as if references therein to the payment of costs by a local authority not being a party to the inquiry had been omitted. [1396]

For the Local Government Act, 1933, s. 290 (2)-(5), see 26 Statutes 459.

(10) The Minister may require an applicant for an order under this section to cause to be published in such manner, and to serve on such persons, as the Minister may direct notice of the making of the order, and may refuse to make the order until he is satisfied that the requirement will be complied with. [1397]

(11) The Minister shall deposit a copy of any order made by him under this section with the clerk of the council of each county or county borough which comprises any part of the land to which the order relates. [1398]

(12) There shall be chargeable in respect of any business transacted by the Minister under this section such fees as he may with the approval of the Treasury determine. [1399]

The Minister is the Minister of Agriculture and Fisheries; see s. 1 (1) (a), *ante*.
This section is to have effect subject to s. 9 (1), (2), *post*; see s. 9 (3), *post*.

4. Maps to be attached to orders and deposited with county authorities.

—(1) When this Act is applied to any land by virtue of an order other than a varying order, the Minister shall attach to the order a map showing the land to which this Act is applied thereby. [1400]

(2) When this Act is applied to any land, or ceases to apply to any land, by virtue of a varying order, the Minister shall, by alteration of the map attached to the original order or by substitution of a new map, secure that there shall at all times be attached to the original order a map which conforms to the provisions of that order as varied. [1401]

(3) The Minister shall deposit a copy of any map or substituted map attached by him to an order with the clerk of the council of each county or county borough which comprises any part of the land to which this Act applies by virtue of the order and of any variation thereof, and shall notify to the clerk any alteration made therein by the Minister, and the clerk shall retain any map deposited with him under this subsection until it is superseded by a substituted map or the relevant order is revoked, and shall alter it in accordance with any such alteration as aforesaid notified to him. [1402]

The Minister is the Minister of Agriculture and Fisheries; see s. 1 (1) (a), *ante*.

5. Power to prohibit entry when fires likely to result.—(1) If, upon an application made to the Minister by the owner or occupier of any land to which this Act for the time being applies, or by any other person deemed by him to be sufficiently interested therein, the Minister is satisfied that, by reason of any exceptional conditions of weather for the time being prevailing, access by the public to the land or to any part thereof is likely to result in fires occurring thereon, he may by order direct that during such period as may be specified in the order no person shall, without lawful authority (proof of the possession whereof shall lie upon him), enter upon the land or upon any particular area therein specified in the order. [1403]

(2) An order made under this section may be revoked or varied by a subsequent order made by the Minister. [1404]

The Minister is the Minister of Agriculture and Fisheries; see s. 1 (1) (a), *ante*.

6. Conditions to be observed on land to which this Act applies.—No person shall without lawful authority (proof of the possession whereof shall lie upon him) in or upon any land to which this Act applies—

- (a) draw, drive, ride, or use any carriage, cart, caravan, truck, cycle, or motor or other vehicle ;
- (b) light any fire or do any act which causes or is likely to cause a fire ;
- (c) take, or allow to enter or remain, any dog not under proper control ;
- (d) wilfully pursue, disturb, interfere with or injure any animal, bird or fish, or take or injure any eggs or nests ;
- (e) bathe in any non-tidal water in contravention of a notice displayed near the water prohibiting bathing ;
- (f) engage in any operations of or connected with hunting (otherwise than as a bona fide rider or huntsman with or follower of any pack of hounds), shooting, fishing, snaring, taking or destroying of animals, birds or fish, or bring or have any engine, instrument or apparatus used for hunting, shooting, fishing, snaring, taking or destroying animals, birds or fish ;
- (g) wilfully damage the land or anything thereon or therein ;
- (h) wilfully injure, remove, or destroy any plant, shrub, tree, or root or any part thereof ;
- (i) obstruct the flow of any drain or watercourse, open, shut or otherwise interfere with, any sluice-gate or other apparatus, break through any hedge, fence or wall, or neglect to shut any gate ;
- (j) affix or write any advertisement, bill, placard or notice ;
- (k) deposit and leave any glass, china, earthenware, tin, carton, paper or other rubbish, so as to create, or tend to create, a litter ;
- (l) engage in any riotous, disorderly or indecent conduct ;
- (m) wantonly disturb, annoy, or obstruct any person engaged in any lawful occupation ;
- (n) hold any political meeting or deliver any political address ; or
- (o) hinder or obstruct the owner or occupier of the land or any person having an interest therein, or any person acting under the authority of the owner, occupier or person interested, in the exercise of any right or power vested in him by virtue of this Act or otherwise. [1405]

7. Offences and enforcement.—(1) Any person who, in or upon any land to which this Act applies, contravenes or fails to observe any of the provisions specified in the last preceding section or any limitation or condition specified in relation thereto in an order made under section three of this Act, or any direction given in relation thereto by an order made under section five of this Act, shall be guilty of an offence under this section :

Provided that—

- (a) in relation to a contravention of or failure to observe a limitation or condition specified in an order made under section three of this Act, this subsection shall have effect only if it is expressly provided by an order so made that this subsection shall have effect in relation thereto, and the Minister shall not make an order containing such

provision unless he is satisfied that it is necessary so to do in order to prevent the continuance of contraventions of, or failure to observe, the condition or limitation, or in the public interest ;

- (b) a person shall not be guilty of an offence under this section by reason only of any unintentional failure to observe, or contravention of, a limitation, condition, or direction, prohibiting him from entering upon land to which this Act applies, or upon any particular area therein ; and
- (c) it shall not be an offence under this section to draw or drive a motor vehicle on any land within fifteen yards of a road, being a highway or any other road to which the public has access, and on which a motor vehicle may lawfully be driven, for the purpose only of parking the vehicle on that land, so however that nothing in this paragraph shall be construed as affecting the law of trespass to land, or any right or remedy to which any person may by law be entitled in respect of any such trespass, or in particular as conferring any right to park a vehicle on any land. [1406]

(2) If the owner or occupier of land to which this Act applies or any person having an interest therein, or any person acting under the authority of the owner, occupier or person interested, has reason to think that any person present on the land has been guilty of an offence under this section in relation thereto, he may (on production, if he is acting under authority and is so requested, of evidence of his authority) require that person to give his full name and address, and if that person when so required refuses to give his full name and address or gives a false name or address, he shall be guilty of an offence under this section.

[1407]

A person having an interest in land includes a person entitled to sporting rights thereover ; see s. 12 (3), *post*.

(3) Any person guilty of an offence under this section shall, without prejudice to any other liability, be liable, on summary conviction, to a fine not exceeding, in the case of a contravention of any of the provisions specified in paragraph (b) of section six of this Act, five pounds for the first offence and ten pounds for any subsequent offence, and, in the case of any other offence, two pounds. [1408]

(4) If any person, by any act or omission which constitutes an offence under this section, does, or cause to be done, any damage to property, he shall, on conviction of the offence, be liable upon the application of the person who sustains the damage to be ordered to pay to him as compensation therefor such sum not exceeding ten pounds as the court before which he is convicted may consider reasonable :

Provided that this subsection shall not prevent the taking of any other legal proceedings in respect of that damage, so however that a person shall not be proceeded against twice in respect of the same claim.

[1409]

8. Saving of rights.—(1) Neither the access for air and pedestrian exercise to any land to which this Act for the time being applies nor any provision of this Act shall—

- (a) prejudice or affect any right or power with respect to the use of the land vested in the owner or occupier thereof or in any person having an interest therein ; or

- (b) prejudice or affect any right to withdraw support from the land ;
or
- (c) notwithstanding anything in any other Act, or in any statutory order, scheme or regulation, subject any person to any obligation to fence, or provide protection against any danger from quarries, mines, shafts, drains, wells, holes, reservoirs, ponds, watercourses, pipelines, aqueducts, posts, ropeways, transmission lines or electricity apparatus, or any places which may be or become sources of danger ; or
- (d) subject the owner or occupier of the land or any person having an interest therein to any liability in respect of any act or thing done, or omitted to be done, by any person allowed in consequence of this Act to have access to the land ; or
- (e) constitute the land an open place of resort for the public within the meaning of any licence under the Explosives Act, 1875, or subject any person to any statutory or other restriction in relation to the establishment or maintenance of any factory, magazine, or store, for gunpowder or other explosives, or the making, storage, or keeping of any such explosives ; or
- (f) affect any highway or any right of way or other right or easement or afford evidence or ground for establishing or negating a presumption of dedication of a highway, or the grant of a right of way or other right or easement. [1410]

A person having an interest in land includes a person entitled to sporting rights thereover see s. 12 (3), *post*.

For the Explosives Act, 1875, see 8 Statutes 385.

(2) In respect of injury sustained on land to which this Act applies, neither the owner nor the occupier thereof nor any person having an interest therein shall be under any greater liability than he would have been under if the land had not been land to which this Act applies and persons allowed in consequence of this Act to have access thereto had been trespassers thereon :

Provided that nothing in this subsection shall be construed as authorising the owner or occupier of land to which this Act applies, or any person having an interest therein, to do or cause to be done thereon anything involving a contravention of subsection (1) of section one of this Act. [1411]

As to a " person having an interest in land ", see note to sub-s. (1), *supra*.

9. Protection of statutory water undertakers.—(1) If, on an application for an order applying this Act to land, the Minister is of opinion that the making of an order in accordance with the application without modification would involve danger of pollution of a water supply of statutory water undertakers, he shall, in making any order in accordance with the application, make it with such modifications as are in his opinion necessary in order to prevent that danger arising, or, if it is in his opinion impracticable so to do, shall refuse to make an order. [1412]

(2) If, on a representation made to him by any statutory water undertakers or otherwise, the Minister is of opinion that the revocation or variation of an order made under section three of this Act is requisite in order to prevent danger of pollution of a water supply arising or continuing, he shall make a varying order giving such directions as are in his opinion requisite for that purpose, or, if it is in his opinion impracticable so to do, shall make a revoking order. [1413]

(3) Section three of this Act shall have effect subject to the preceding provisions of this section. [1414]

(4) In this section the expression "statutory water undertakers" means any company, local authority, board, committee, or other persons or person supplying water under an enactment, and the expression "enactment" means an enactment in any Act of Parliament, whether public, general, local or private, and a provision in an order confirmed by, or made under, an Act of Parliament. [1415]

10. Contribution by certain local authorities to expenses.—The council of a county, of a borough, or of an urban district having a population according to the last published census of more than twenty thousand, may pay or contribute towards—

- (a) the expenses of the provision on land to which this Act applies of any facilities for the public, or works for the protection of the owner or occupier of the land or of the public ;
- (b) the expenses of the provision and upkeep of notice boards on any such land ; and
- (c) the expenses of, or incidental to, any application to the Minister for an order under section three of this Act. [1416]

11. Power to make regulations.—(1) The Minister may make regulations for giving effect to the purposes of this Act and, in particular, for prescribing the procedure to be followed in connection with the making of applications for orders under this Act. [1417]

(2) All regulations made under this section shall be laid as soon as may be before Parliament, and, if either House within the next twenty-eight days on which that House has sat after any such regulation has been laid before it resolves that the regulation be annulled, it shall thenceforth be void, but without prejudice, however, to the validity of anything previously done thereunder or to the making of a new regulation. [1418]

12. Short title, commencement, extent and interpretation.—(1) This Act may be cited as the Access to Mountains Act, 1939, and shall come into operation on the first day of January nineteen hundred and forty.

(2) This Act shall not extend to Scotland, or to Northern Ireland.

(3) In this Act references to a person having an interest in land include references to a person entitled to sporting rights thereover, notwithstanding that such rights may be enjoyed by way of licence only.

[1419]

THE CAMPS ACT, 1939

(2 & 3 GEO. 6, c. 22)

An Act to promote and facilitate the construction, maintenance and management of camps of a permanent character. [1420]

[25th May 1939.]

PRELIMINARY NOTE

This Act establishes an organisation for the provision of permanent camps, to be managed by a company to be recognised by the Minister of Health and

to be financed from national resources up to a limit of £1,200,000. The company is given the same powers of compulsory purchase, by means of a compulsory purchase order confirmed by the Minister, as local authorities have in respect of the more urgent of their functions, and the power of immediate entry upon notice after service of notice to treat which has been given to local authorities in a limited class of cases.

The operations of the company, as respects Statutes imposing control and restrictions, are controlled by the Minister instead of by local authorities. It will be seen that powers of a most drastic nature have been conferred on the Minister and the company. The Act may be regarded as a sequel to the Physical Training and Recreation Act, 1937 (30 Statutes 712). Under that Act (section 4, *ibid.*, 714) local authorities for the purposes of the Act are empowered to provide holiday camps or camping sites, and may (section 5, *ibid.*) purchase land compulsorily for the purpose by means of a compulsory purchase order.

1. Power to make payments for promoting camps.—

(1) With a view to promoting the construction, maintenance and management of camps of a permanent character, payments may, with the consent of the Treasury, be made out of moneys provided by Parliament to each of two companies recognised for the purposes of this section, one for England and Wales and one for Scotland, being companies not trading for profit the objects of which include the construction, maintenance and management of such camps; and the companies so recognised are hereinafter referred to as recognised companies.

(2) The said companies shall be recognised, and such payments as aforesaid shall be made to them, by the appropriate Minister.

(3) Payments made under this section may be by way of grant or loan and shall be made upon such terms and conditions as may be determined by the appropriate Minister with the consent of the Treasury:

Provided that the sum of the grants made under this section and of the amounts outstanding in respect of the principal of any loans made thereunder shall not at any time exceed in the aggregate one million two hundred thousand pounds.

(4) In this section the expression "the appropriate Minister", in relation to the company recognised for England and Wales and payments made to that company, means the Minister of Health and, in relation to the company recognised for Scotland and payments made to that company, means the Department of Health for Scotland.

(5) All sums received in repayment of the principal of any loan made under this section or in respect of any interest on any such loan shall be paid into the Exchequer. [1421]

Definitions.—The following expressions in this section are defined by section 6, *post* :—

"construction";

"management";

"company"

Note also the definition of "appropriate Minister" in subsection (4) hereof.

See the preliminary note to the Act as to the purposes for which these powers are granted.

2. Power to authorise recognised companies to purchase land compulsorily.—

(1) A recognised company may be authorised by means of a compulsory purchase order made by the company and

confirmed by the Minister of Health (hereinafter referred to as "the Minister") to purchase land compulsorily for the purposes of their functions in connection with the construction, maintenance and management of camps and also any land reasonably necessary for the preservation of the amenities of any land acquired or proposed to be acquired for such purposes.

(2) The provisions of sections one hundred and sixty-one, one hundred and sixty-two, one hundred and seventy-four and one hundred and seventy-five of the Local Government Act, 1933, and of paragraphs (a), (b) and (c) of section one hundred and seventy-nine of that Act shall, subject to the provisions of the next succeeding subsection, apply with respect to any order made under this section as if the recognised company were a local authority and the provisions of subsections (2), (3), (4), (5) and (8) of section two hundred and ninety of the said Act shall apply to any inquiry which the Minister may cause to be held with respect to any such order :

Provided that, in the case of any compulsory purchase order submitted to the Minister under this section within two years after the passing of this Act, the Minister shall not be bound to cause a local inquiry to be held before confirming the order, notwithstanding the provisions of subsection (4) of the said section one hundred and sixty-one.

(3) In its application to a recognised company who make under this section a compulsory purchase order, subsection (3) of section one hundred and sixty-one of the Local Government Act, 1933, shall have effect as if it provided that the notice required by paragraph (a) of that subsection to be published in a local newspaper shall also be served on the council of every county and of every borough, or urban or rural district, in which any land comprised in the order is situate.

(4) Where a recognised company are authorised by an order confirmed under this section to purchase land compulsorily, then, at any time after notice to treat has been served, the company may, after giving to the owner and to the occupier of the land not less than fourteen days' notice, enter on and take possession of the land or such part thereof as is specified in the notice, without previous consent or compliance with sections eighty-four to ninety of the Lands Clauses Consolidation Act, 1845, but subject to the payment of the like compensation for the land of which possession is taken, and interest on the compensation awarded, as would have been payable if those provisions had been complied with.

(5) The provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall apply in relation to the compulsory purchase of any land authorised under this section in like manner as if a recognised company were a public authority. [1422]

Definitions.—The following expressions in this section are defined by section 6, *post* :—

"company";
 "construction";
 "management";
 "land".

"Recognised company" is defined by section 1 (1), *ante*.

Local Government Act, 1933.—See sections 161, 162, 174, 175, 179, 290 of that Act in 26 Statutes 394 *et seq.* Sections 161 and 162 contain the provisions for the compulsory acquisition of land by a local authority authorised by a public general Act to proceed by way of an order made by the authority and confirmed by the Minister. Note that section 161 (4) requires a local inquiry to be held if there is objection to the order. By the proviso to subsection (2) hereof such an inquiry need not be held before confirmation of an order submitted to the Minister before May 25, 1941. Section 174 protects commons, open spaces and allotments. Section 179 (a), (b) and (c) safeguard ancient monuments and their sites and land which is the property of a local authority or which has been acquired by statutory undertakers for the purposes of their undertaking. Section 290 (2), (3), (4), (5) and (8) deal with procedure and costs at an inquiry ordered by the Minister.

Section 161 (3) of the Local Government Act, 1933, deals with the giving of notice, in the newspapers, and to persons interested, of the submission of a compulsory purchase order to the Minister. Subsection (3) (a) thereof requires the publication in local newspapers of specified particulars with regard to the compulsory purchase order. The present section requires that such particulars shall also be served on the local authority in whose area the land is situated.

For sections 84 to 91 of the Lands Clauses Consolidation Act, 1845, see 2 Statutes 1142. The power of entry on 14 days' notice after notice to treat corresponds to similar powers which have been given to local authorities in certain cases and generally in cases to which the Public Works Facilities Act, 1930, applies. The Acquisition of Land (Assessment of Compensation) Act, 1919 (2 Statutes 1176) supersedes, in all cases to which it applies, the provisions for ascertaining compensation contained in the Lands Clauses Acts. It applies to all land acquired by Government departments and local authorities (except where there is statutory provision to the contrary, or the land is acquired by the exercise of the Royal prerogative). The present section adds the recognised companies to the Government departments and local and public authorities to which the Acquisition of Land (Assessment of Compensation) Act, 1919, applies, and compensation will therefore be determined by an Official Arbitrator under that Act, in accordance with the rules prescribed by section 2 of that Act (2 Statutes 1178.)

3. Exemption from building restrictions.—(1) Where plans and specifications for the construction of any buildings or erections, or the making of any excavations, by a recognised company in the exercise of their functions in connection with the construction, maintenance and management of camps have been submitted to and approved by the Minister, then, no requirements or restrictions imposed by, or under, any enactment as to the erection, placing or making of buildings, erections or excavations, or the construction, formation or laying out of means of access to or from any road, or as to the submission of plans and specifications, or the giving of notices, to a local authority, shall apply in relation to any building, erection or excavation erected, placed, or made in accordance with the plans and specifications so approved, except in so far as the Minister may direct. [1423]

(2) No provision contained in a scheme made under the Town Planning Act, 1925, or the Town and Country Planning Act, 1932, or any enactment repealed by either of those Acts, shall apply to any land acquired, or appropriated, with the approval of the Minister by a recognised company for the purposes of their functions in connection with the construction, maintenance and management of camps, except in so far as the Minister may at any time direct :

Provided that—

- (a) before giving his approval under this subsection, the Minister shall notify the planning authority, if any, for the area in which the land is situate, of the application for his approval and take into consideration any representations which may be made to him by that authority within fourteen days after the receipt by them of such notification ; and

(b) this subsection shall cease to have effect when such land ceases to be used for such purposes. [1424]

(3) A recognised company who submit any plans and specifications to the Minister for his approval under subsection (1) of this section shall transmit copies thereof to the council of the county and of the borough or urban or rural district, and to the planning authority, if any, for the area, in which the site of the proposed buildings, erections or excavations is situate, and the Minister, before giving his approval, shall take into consideration any representations which may be made to him by that council or authority within fourteen days after the receipt by them of the copies of the plans and specifications.

In this section the expression "planning authority" in relation to any land subject to such a scheme as is mentioned in the last preceding subsection, or to a resolution to prepare or adopt such a scheme, means the authority having power to control the development or interim development of that land. [1425]

The following expressions in this section are defined :—

- "construction" (by section 6);
- "company" (by section 6);
- "management" (by section 6);
- "enactment" (by section 6);
- "road" (by section 6);
- "planning authority" (by subsection (3) hereof).

"Recognised company" is defined by section 1 (1), *ante*.

The Minister is the Minister of Health (section 2 (1), *ante*).

Subsection (1) exempts the recognised companies from the submission of plans under the Public Health Act, 1936 (29 Statutes 309 *et seq.*) or bye-laws made thereunder; from compliance with any statutory restriction, *e.g.* a building line under the Roads Improvement Act, 1925, section 5 (9 Statutes 223); an improvement line under the Public Health Act, 1925, section 33 (13 Statutes 1128); or the statutory restrictions imposed by the bringing into operation of section 1 or section 2 of the Restriction of Ribbon Development Act, 1935 (28 Statutes 81, 82). They are also exempt from the control imposed on development by the Town and Country Planning Act, 1932 (25 Statutes 470). The Minister may direct that any of these restrictions are to apply and he is required, before approving plans, to consult the local authorities who administer these Acts. Restrictions under the Town and Country Planning Act are to revive if land ceases to be held for the purposes of the Acts.

In effect the Minister is substituted for the local authority and the advantages flowing from the administration of these Acts by persons with intimate local knowledge are lost. Instances have consequently already occurred of the construction of camps on land zoned for high-class residential development and immediately adjoining land already so developed.

Planning schemes.—The Town Planning Act, 1925 (13 Statutes 1079) is wholly repealed by the Act of 1932, but nothing in the repeal affects any scheme made under that Act, see Town and Country Planning Act, 1932, section 54, proviso (a) (25 Statutes 522).

4. Powers of Unemployment Assistance Board to make arrangements with recognised companies as to employment.—

The Unemployment Assistance Board may enter into agreements with any recognised company for the employment of persons upon work for the company in like manner and, save as hereinafter provided, subject to the like conditions, as the Board may under section thirty-seven of the Unemployment Assistance Act, 1934, enter into agreements for their employment upon work for local authorities, and that section shall apply accordingly with the necessary modifications :

Provided that the employment of persons upon work for a recognised company in pursuance of an agreement made under this section need not be in continuance of, or part of, training and instruction afforded in connection with a training course, and where the work is not utilised as part of a training course, the contributions which may be made by the Board shall be in respect of any additional expenditure

incurred by the recognised company by reason of the persons being employed in pursuance of the agreement. [1426]

"Recognised company".—For the meaning of this see sections 1 and 6.

Powers of Unemployment Assistance Board.—Under section 37 of the Unemployment Assistance Act, 1934 (27 Statutes 789), the Unemployment Assistance Board, constituted by section 35 of the Act, may provide and maintain training courses for unemployed persons of eighteen and upwards, and may also make arrangements for the continuance of such training by agreeing with local authorities for the employment of such persons upon suitable work. Section 4 of the present Act entitles the Board to make such agreements with any recognised company as if it were a local authority under section 37 of the Act of 1934. But the employment upon work for a recognised company need not be in continuance of training.

5. Annual reports to be made by a recognised company.—A recognised company shall each year prepare and submit to the appropriate Minister an annual report on their operations in that year; and the Minister, upon receiving any report submitted to him under this section, shall lay copies of the report before Parliament. [1427]

"Recognised company".—For the meaning of this see sections 1 and 6.

"The appropriate Minister".—See section 1 (4), *ante*.

6. Interpretation.—In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

"company" has the meaning assigned to it by section three hundred and eighty of the Companies Act, 1929;

"construction," in relation to a camp or building, includes the making of any alterations and additions to any building to adapt it for use in connection with a camp;

"enactment" includes any private or local Act;

"land" includes any interest in land and any easement or right in, to or over land;

"management," in relation to a camp, includes the arrangement and supervision of all matters connected with the use of the camp, and the provision of facilities for recreation for the persons using it;

"road" has the same meaning as it has in the Restriction of Ribbon Development Act, 1935. [1428]

"Company".—By the Companies Act, 1929, section 380 (2 Statutes 1006), "'company' means a company formed and registered under this Act or an existing company".

"Road".—By the Restriction of Ribbon Development Act, 1935, section 24 (28 Statutes 98) "'road' means a highway repairable by the inhabitants at large and includes any part of such a highway and any proposed road and any bridge over which such a highway passes or a proposed road is intended to pass". As to such highways, see Halsbury's Laws of England, 2nd Edn., Vol. 16, p. 190.

7. Application of Act to Scotland. [1429]

8. Short title and extent.—(1) This Act may be cited as the Camps Act, 1939.

(2) This Act shall not extend to Northern Ireland. [1430]

PERSONS OF UNSOUND MIND

See also EVACUATION AND BILLETING.

CASES :—	PAGE	R. v. Boycott, <i>Ex p.</i> Keasley, [1939] 2 All E. R. 626, D. C.	PAGE
London County Council v. Ipswich County Borough Council, [1939] 2 All E. R., 660, D. C.	704		704

CASES

Mental Defective—Certified while in a General Hospital—Place of Residence Immediately before Admission to Certified Institution—Whether General Hospital “Place of Residence Immediately before”—Liability for Maintenance—Mental Deficiency Act, 1913 (c. 28), ss. 43 (1), 71—Mental Deficiency Act, 1927 (c. 33), s. 9.

On 10th June, 1938, a girl who had been living in St. Pancras Hospital in the county of London from 24th November, 1937, was found to be feeble-minded, and was sent to a certified institution by a judicial authority who specified the county borough of Ipswich as her place of residence and respondents as the responsible authority for her maintenance under the Mental Deficiency Act, 1913, s. 43, because the girl resided in the respondents' borough before 24th November, 1937, when she was removed to St. Pancras Hospital, following upon an order of removal to the county of London, being her last place of legal settlement by virtue of her residence there with an irremovable parent. A magistrate granted an application made by respondents to have the liability transferred to applicants, who thereupon brought this appeal :—

Held : (i) upon a proper construction of s. 9 of the Act of 1927, the words “or other public or charitable institution” were decidedly general, and meant “any other public or charitable institution”, and not “or other public or state or certified institution”, as the *ejusdem generis* rule was inapplicable. St. Pancras Hospital could not, therefore, be regarded as a “place of residence” within the meaning of the section ;

(ii) on the facts, it could not be said that St. Pancras Hospital was determined to have been the defective's place of residence within the meaning of s. 9, because the order for her removal to the county of London was not “for the purposes of or in connection with” her reception into St. Pancras Hospital within the meaning of s. 9, but only determined her last place of legal settlement, and not her place of residence.—*LONDON COUNTY COUNCIL v. IPSWICH COUNTY BOROUGH COUNCIL*, [1939] 2 K. B. 288 ; [1939] 2 All E. R. 660 ; 108 L. J. K. B. 525 ; 160 L. T. 529 ; 103 J. P. 231 ; 55 T. L. R. 689 ; 83 Sol. Jo. 548 37 L. G. R. 409 ; Digest Supp.—D. C. [1431]

Education—Mental Deficiency—Schoolboy Certified by Two Medical Officers but Examined by One only—Certificate by Boy's Doctor that Boy Fit to be Educated at Council School—Whether “case of Doubt”—Whether Certification by Medical Officers an Administrative or a Judicial Act—Mental Deficiency Act, 1913 (c. 28), s. 31 (1)—Education Act, 1921 (c. 51), s. 55 (6).

A boy, aged eleven, had been attending a county council school for several years. In 1937, the headmaster wrote to the boy's father saying that the boy was to be medically examined, and in September, 1937, the father received a letter from the local education sub-committee stating that the boy was to be examined with a view to his transfer to a special school. The father strongly objected to the boy being treated as an imbecile or feeble-minded, and maintained that he was fit for ordinary elementary education. He thereupon had the boy medically examined. The boy was later medically examined by his own doctor, who reported that he was quite capable of being educated at the council school. Later the doctor's report was confirmed by a specialist. In October, 1938, the father received notice that the boy had been certified as an imbecile, with the result that the boy was treated as ineducable and remained at home. The document which purported to certify the boy as an imbecile was signed by two doctors, the certifying medical officer and the school medical officer, but it was admitted that the second signature was purely formal, as the second doctor had never even seen the boy. The boy, suing by his father, now sought to have the certificate and relative documents quashed, on the ground that, *inter alia*, as this was a case of doubt within the meaning of s. 31 of the Act of 1913, he had been wrongly certified as an imbecile and there had been an excess or usurpation of jurisdiction in obtaining the certificate and the relative documents, which consisted of a report by the two medical officers bearing the same date as that of the certificate, and a notification sent by the clerk to the education committee to the Mental Deficiency Act committee of the county council requesting them to consider the advisability of arranging for the transfer of the boy on the footing that he was an imbecile. On behalf of the respondents, it was contended, *inter alia*, that the present proceedings were misconceived, as the documents sought to be quashed arose from administrative acts, and did not arise from the acts of a judicial authority :—

Held : (i) as this was a case of doubt to be determined by the Board of Education within the meaning of s. 31 of the Act of 1913, there was an excess or usurpation of jurisdiction in obtaining the documents, and the boy was wrongly certified ;

(ii) the certificate complained of was created in such a way that it took the form of a decision of a *quasi-judicial* authority, and, together with the other documents, exhibited the mischief which the remedy provided by the writ of *certiorari* was intended to prevent.—*R. v. Boycott, Ex parte Keasley*, [1939] 2 K. B. 651 ; [1939] 2 All E. R. 626 ; 108 L. J. K. B. 657 ; 83 Sol. Jo. 500, Digest Supp.—D. C. [1432]

PETROLEUM

See REGULATED INDUSTRIES, TRADES AND BUSINESSES.

PLANT

See BUILDING.

POLICE

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STATUTES

THE POLICE AND FIREMEN (WAR SERVICE) ACT, 1939

(2 & 3 GEO. 6, c. 103)

PRELIMINARY NOTE

This Act, which received the Royal Assent on 7th September, is deemed to have come into operation at the commencement of the present emergency, *i.e.*, 1st September, 1939. It is not expressly limited in duration, but its provisions are worded to apply to war service during the present emergency. Its object is to safeguard the position of the police force and of members of fire brigades who undertake war service, both by addition to their war pay and by the protection of their superannuation rights. Policemen and firemen are not included in the Local Government Staffs (War Service) Act, 1939, *ante*, as their pay and superannuation has always been dealt with by separate Acts.

The present Act must be read with the Police Pensions Act, 1921 (12 Statutes 873), as amended by the Police Pensions Act, 1926 (*ibid.*, 897), and the Fire Brigade Pensions Act, 1925 (13 Statutes 1095) as amended by the Fire Brigade Pensions Act, 1929 (*ibid.*, 1194), and also with the Fire Brigades Act, 1938 (31 Statutes 585), which made certain additions to the Fire Brigade Pensions Acts.

The appropriate authorities are empowered to make up the war service pay of police and firemen to the amount they would have received if they had remained in their former employment. They may continue the payment up to a year on the recipient's ceasing to serve in His Majesty's forces.

Any period of war service or any period during which payment is made after a policeman or fireman ceases to serve as above is to be counted as approved service under the Superannuation Acts, except for any period during which he is below the minimum age for approved service. Where he received payment to make up his pay or receives pay equal to or greater than his previous pay, he must contribute towards the superannuation.

If the policeman or fireman is killed or disabled during war service he or his dependants, as the case may be, are to be entitled to the benefits which would have been payable if he had died or retired in consequence of an injury received otherwise than in the execution of his duty as a policeman or fireman. Such benefits, when aggregated with grants from naval, military or air force funds, must not exceed the benefits which would have been payable if the policeman or fireman had died or been disabled from an injury not of an accidental kind received in the execution of his duty; but the authority may make a grant at a higher rate to bring the aggregate up to that maximum.

The present Act is to be substituted for the provisions of earlier Acts which provide for the superannuation of policemen and firemen in the navy, army or air force reserves during the present emergency.

The Act also suspends the right to retire on pension of chief officers of police forces or fire brigades except with the consent of the appropriate authority and of ordinary members of the forces except with the consent of the chief officer.

Certain provisions of the Act do not apply to members of the London Fire Brigade, or certain firemen who have superannuation rights outside the Act of 1925; these are to be dealt with by schemes to be approved by the Home Secretary.

On 28th August, an Order was made by the Home Secretary (S.R. & O. 1939 No. 1202) under the Metropolitan Police Staff (Superannuation) Acts, 1875-1931, enabling officers of the staff of the Metropolitan Police and Police Courts to make an allocation to spouses and dependants of part of their superannuation benefits in the same way as civil servants under the Superannuation (Various Services) Act, 1938 (31 Statutes 625).

ARRANGEMENT OF SECTIONS

Civil Remuneration and Superannuation

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An Act to make provision with respect to constables and firemen serving in His Majesty's forces during the period of the present emergency, to suspend the right of constables and firemen to retire on pension during that period, to provide that war injuries shall be deemed to be non-accidental injuries for the purpose of enactments and other instruments relating to the pensions of constables and firemen, to amend section sixteen of the Fire Brigade Pensions Act, 1925, and for purposes connected with the matters aforesaid. [1438] [7th September 1939.]

Civil Remuneration and Superannuation

1. Payments to make up amount of civil remuneration.—

(1) Where during the period of the present emergency a person serving as a constable or fireman ceases so to serve in order to serve in His

Majesty's forces, the appropriate authority shall have power to make to or in respect of him such payments as are hereafter in this section provided.

Any such person is hereafter in this Act referred to as a person to whom this section applies. [1434]

(2) While a person to whom this section applies is serving during the said period in His Majesty's forces, the appropriate authority may pay to him or to or for the benefit of his wife or other dependants nominated by him, a sum which shall not exceed the pay and allowances he would have received if he had continued to serve as a constable or fireman, after deducting therefrom the amount of his service pay. [1435]

(3) On any such person ceasing to serve in His Majesty's forces, the appropriate authority may, for such period as the authority may determine having regard to all the circumstances of the case, but not in any case expiring later than one year after the end of the period of the present emergency, pay to him or to or for the benefit of his wife or other dependants nominated by him, a sum not greater than the pay and allowances he would have received if he had been serving as a constable or fireman. [1436]

(4) Any payment made under this section to any person shall—

- (a) in the case of a constable, be made out of the fund out of which his pension would have been payable if he had continued to serve as a constable in the police force to which he belonged immediately before he ceased so to serve; and
- (b) in the case of a fireman, be made out of the fund out of which there are paid the expenses of the fire brigade to which he belonged immediately before he ceased to serve as a fireman. [1437]

Definitions.—The following expressions in this section are defined by section 14, *post* :—
“period of the present emergency”; “constable”; “fireman”; “appropriate authority”; “service pay”.

2. Reckoning of war service for purposes of superannuation.—(1) For the purposes of the appropriate pension enactment—

- (a) any period for which a person to whom section one of this Act applies serves in His Majesty's forces during the period of the present emergency; and
 - (b) any period for which payments are made to or in respect of any such person under subsection (3) of the said section one;
- shall be treated as a period of approved service in the police force or fire brigade to which he belonged immediately before he ceased to serve as a constable or fireman in order to serve in His Majesty's forces:

Provided that no period before any such person attains the minimum age for approved service under the appropriate pension enactment shall be treated as a period of approved service. [1438]

(2) For the purposes of sections nine and twenty of the Police Pensions Act, 1921, and sections seven and eighteen of the Fire Brigade Pensions Act, 1925 (which relate to discontinuous service and to a return of rateable deductions on retirement), a person to whom section

one of this Act applies shall be deemed to have retired from or left the police force or fire brigade to which he belonged immediately before he ceased to serve as a constable or fireman, if and when, but not before, he fails to resume service as a constable or fireman at the end of the period which by virtue of subsection (1) of this section is treated as a period of approved service in his case, or within such further time from the end of that period as the appropriate authority may fix with the approval of the Secretary of State. [1439]

The following expressions in this section are defined by section 14, *post* :—

“appropriate pension enactment”; “period of the present emergency”; “constable”; “fireman”.

“Approved service” is the service to be reckoned for pension. It may be subject to deductions in respect of sickness, misconduct or neglect of duty (see sections 7 to 11 of the Police Pensions Act, 1921 (12 Statutes 876) and sections 6 to 9 of the Fire Brigade Pensions Act, 1925 (13 Statutes 1097)).

“The minimum age for approved service” under the Police Pensions Act, 1921, is by section 7 (1) (12 Statutes 877) twenty years, except in the case of a member of a police force who before attaining that age is incapacitated for the performance of his duty by infirmity of mind or body occasioned by an injury received in the execution of his duty without his own default. A similar provision in regard to firemen is made in the Fire Brigade Pensions Act, 1925, section 6 (1) (13 Statutes 1098).

Section 9 of the Police Pensions Act, 1921 (12 Statutes 877) allows a member of a police force who has retired from the force without a pension and subsequently rejoins, to reckon as approved service the period of approved service which he was entitled to reckon at the end of his previous service, if he repays the police authority the amount of any gratuity which may have been granted to him or of any rateable deductions from his pay which may have been paid to him by the police authority in respect of his previous service. The same is allowed where he joins some other police force, if the period of the approved service is less than one year.

The Fire Brigade Pensions Act, 1925, section 7 (13 Statutes 1098), provides that where a fireman has served in more than one fire brigade and has completed not less than one year's approved service as a fireman in any fire brigade from which he has removed with the sanction of the authority, such approved service is to be reckoned as approved service in the brigade in which he was serving at the time of his death or retirement. Where he is granted a pension or gratuity, the authority with whom he was serving at the time of his death or retirement may call upon the other authority to contribute a proportional part of any pension or gratuity, settled by agreement or by an arbitrator appointed by the Home Secretary.

Section 18 of the 1925 Act (13 Statutes 1103) is similar to section 20 of the Act of 1921 above, but the amendment thereto by the Fire Brigade Pensions Act, 1929, section 1 provides that, where a fireman dies in such circumstances that no pension, allowance or gratuity is payable at his death, the authority must pay to his widow or his personal representative the whole of the rateable deductions.

3. Rateable deductions.—(1) For any period for which—

- (a) payments are made to or in respect of any person to whom section one of this Act applies under subsection (2) or subsection (3) of that section; or
- (b) the service pay of any such person is equal to or greater than the pay he would have received if he had continued to serve as a constable or fireman;

sums equal to the rateable deductions that would have been made from his pay under the appropriate pension enactment if he had continued to serve as a constable or fireman shall be payable by him to the appropriate authority at the time when the deductions would in that event have been made. [1440]

(2) For the purposes of paragraph (b) of the last foregoing subsection, the pay which any person would have received if he had continued to serve as a constable or fireman shall include—

- (a) such of the allowances which he would have received in that event as the Secretary of State may by regulations prescribe; and
- (b) in a case where, immediately before he ceased so to serve,

he was in occupation of any premises by virtue of his service, the value of those premises assessed in such manner as may be so prescribed. [1441]

(8) The sums payable under subsection (1) of this section by a person to whom section one of this Act applies shall be recovered by the appropriate authority either—

- (a) by way of deduction from the sums which they are authorised under section one of this Act to pay to or in respect of him ; or
- (b) if and so far as they are not recovered by way of deduction as aforesaid, as a simple contract debt in any court of competent jurisdiction or by way of deduction from any grant payable to or in respect of him under the appropriate pension enactment or under that enactment as applied by this Act. [1442]

The following expressions in this section are defined by section 14, *post* :—

“service pay”; “constable”; “fireman”; “appropriate pension enactment”
“appropriate authority”; “grant”.

“Rateable deductions” are 5 per cent., see section 19 of the Police Pensions Act, 1921, as amended by the Police Pensions Act, 1926 (12 Statutes 897), and section 17 of the Fire Brigade Pensions Act, 1925 (13 Statutes 1103).

No regulations applicable to England had been issued under subsection (2) (a) or (b) at the time of going to press.

4. Grants in case of death or incapacity.—(1) If a person to whom section one of this Act applies (being a person who, in order to serve in His Majesty's forces, ceased to serve as a constable) dies either—

- (a) while serving in His Majesty's forces during the period of the present emergency ; or
- (b) in consequence of wounds or disease received or contracted while so serving which prevented him from resuming his service as a constable ;

the appropriate pension enactment shall apply in relation to him as if he—

- (i) had been serving at the time of his death in the police force to which he belonged immediately before he ceased to serve as a constable ; and
- (ii) had died otherwise than from the effects of an injury received in the execution of his duty :

Provided that where by virtue of the foregoing provisions of this subsection a pension or allowance is payable to any person, the appropriate authority may increase the amount thereof up to such amount as they think fit, not exceeding the maximum amount hereafter provided.

[1443]

(2) If a person to whom section one of this Act applies (being a person who, in order to serve in His Majesty's forces, ceased to serve as a fireman) dies either—

- (a) while serving in His Majesty's forces during the period of the present emergency ; or
- (b) in consequence of wounds or disease received or contracted while so serving which prevented him from resuming his service as a fireman ;

the appropriate authority may if they think fit pay—

- (i) a pension to his widow ;
- (ii) allowances to his children under sixteen years of age until they severally reach the age of sixteen years ;
- (iii) a gratuity to any relative of his who has been wholly or mainly dependent upon him ;

of an amount not exceeding the maximum amount hereafter provided, and subject to the provisions of this section the provisions of the appropriate pensions enactment shall apply to any pension, allowance or gratuity granted under this subsection as they apply to any pension, allowance or gratuity granted under that enactment. [1444]

(3) If a person to whom section one of this Act applies, after ceasing to serve in His Majesty's forces, is prevented, in consequence of wounds or disease received or contracted while so serving, from resuming his service as a constable or fireman, the appropriate pension enactment shall apply in relation to him as if he—

- (a) had become, while serving as a constable or fireman in the police force or fire brigade to which he belonged immediately before he ceased to serve as a constable or fireman, incapacitated for the performance of his duty by infirmity of mind or body otherwise than in consequence of an injury received in the execution of his duty ; and
- (b) had retired on a medical certificate, at the time when he ceased to serve in His Majesty's forces, from that police force or fire brigade :

Provided that—

- (i) where by virtue of the foregoing provisions of this subsection a gratuity is payable to any such person, the appropriate authority may, if they think fit, in lieu of paying him a gratuity, pay to him, under and subject to the provisions of the appropriate pension enactment, a pension of an amount not less than one-twelfth of his annual pay and not greater than the maximum amount hereafter provided ; and
 - (ii) where by virtue of the said provisions of this subsection a pension is payable to any such person, the appropriate authority may, if they think fit, increase the amount of the pension up to such amount as they think fit, not exceeding the maximum amount hereafter provided. [1445]
- (4) The amount of any pension or allowance payable to any person for any period at the discretion of the appropriate authority by virtue of this section shall not, when aggregated with the amount of any grant which is also payable for that period to that person out of any naval, military or air force fund in pursuance of any royal warrant or other instrument, exceed—
- (a) in a case to which subsection (1) or (2) of this section applies, the amount which would have been payable to that person for that period under the appropriate pension enactment if the deceased had died from the effects of a non-accidental injury

received in the execution of his duty as a constable or fireman without his own default ; and

- (b) in a case to which subsection (3) of this section applies, the amount which would have been payable to that person for that period if he had been incapacitated for the performance of his duty as a constable or fireman by infirmity of mind or body occasioned by an injury received in the execution of his duty without his own default. [1446]

(5) Where the grant, the amount whereof for any period is to be aggregated for the purpose of the last foregoing subsection with the amount of a pension or allowance payable to any person for that period, is a gratuity, the amount of the grant for that period shall be taken to be the amount which would be payable for that period under Part I of the Government Annuities Act, 1929, if the gratuity had been laid out at the date when it became payable in the purchase of an immediate annuity dependent on the life of that person. [1447]

(6) For the purpose of this section, the appropriate authority may require such evidence as they think fit of the fact that a person to whom section one of this Act applies—

- (a) has died while serving in His Majesty's forces during the period of the present emergency ; or
 (b) has been prevented, in consequence of wounds or disease received or contracted while so serving, from resuming his service as a constable or fireman ; or
 (c) has died in consequence of such wounds or disease. [1448]

(7) Where by virtue of any of the foregoing provisions of this section the amount of any pension, allowance or gratuity is to be determined, whether wholly or in part, at the discretion of the appropriate authority, that authority may from time to time revise their determination. [1449]

The following expressions in this section are defined by section 14, *post* :—

"constable" ; "period of the present emergency" ; "appropriate pension enactment" ; "appropriate authority" ; "fireman" ; "grant".

5. Reckoning of pay during war service.—For the purpose of calculating the amount of any grant or rateable deduction payable or deductible under the appropriate pension enactment in the case of a person to whom section one of this Act applies, he shall be deemed to have received as a constable or fireman, for any period for which—

- (a) he is serving in His Majesty's forces during the period of the present emergency ; or
 (b) payments are made to or in respect of him under subsection (3) of section one of this Act ;

the amount of the pay which he would have received for that period if he had continued to serve as a constable or fireman. [1450]

The following expressions in this section are defined by section 14, *post* :—

"grant" ; "appropriate pension enactment" ; "constable" ; "fireman" ; "period of the present emergency".

6. Act to be substituted for certain provisions relating to constables and firemen in the reserves.—(1) In the case of a

constable belonging to the naval reserves, the army reserve or the air force reserve, the foregoing provisions of this Act shall, in relation to his service as a member of that reserve during the period of the present emergency, have effect in lieu of—

- (a) the provisions of the Police Reservists (Allowances) Act, 1914, as amended by any subsequent enactment; and
- (b) the provisions of section eleven of the Police Pensions Act, 1921.

(2) In the case of a fireman belonging to any such reserve, the provisions of sections two to five of this Act shall, in relation to his service as a member of that reserve during the period of the present emergency, have effect in lieu of the provisions of section nine of the Fire Brigade Pensions Act, 1925. [1451]

The following expressions in this section are defined by section 14, *post*:—

“constable”; “present emergency”; “fireman”.

The Police Reservists (Allowances) Act, 1914 (12 Statutes 860), which dealt with grants from Police Funds to Police Reservists, was amended by the Police Constables (Naval and Military Service) Act, 1914, section 1 (*ibid.*, 863), and the Police Act, 1919, section 5 (*ibid.*, 869), and was extended to the Royal Air Force by Order in Council (S.R. & O. 1918 No. 548).

The Police Pensions Act, 1921, section 11 (12 Statutes 879) allowed the period of service of policemen with the reserve forces to count as approved service.

The Fire Brigade Pensions Act, 1925, section 9 (13 Statutes 1099) allowed the period of service of firemen with the reserve forces to count as approved service.

7. Exception of certain firemen.—(1) Nothing in the foregoing provisions of this Act shall apply to a fireman who, under subsection (2) of section twenty-four of the Fire Brigade Pensions Act, 1925, or under section seventeen of the Fire Brigades Act, 1938, gave a written notice that he desired that the provisions of any scheme, or the provisions of the Local Government and Other Officers' Superannuation Act, 1922, should continue to apply to him. [1452]

(2) Nothing in sections two to six of this Act shall apply to a fireman being—

- (a) a member of the London fire brigade; or
- (b) a member of a fire brigade on whose death or retirement a grant is payable by virtue of a local Act containing provisions relating to that brigade; or
- (c) a fireman as respects whom a scheme is in operation by virtue of paragraph (b) of subsection (1) of section twenty-four of the Fire Brigade Pensions Act, 1925;

but the following provisions of this subsection shall have effect as respects any such fireman who ceases to serve in any fire brigade in order to serve in His Majesty's forces—

- (i) the local authority maintaining that fire brigade shall, as soon as may be after the commencement of this Act, submit to the Secretary of State a scheme containing such amendments of the regulations, Act or scheme regulating the superannuation rights of members of that brigade as will secure that any such fireman shall, as nearly as may be, have the same rights and be under the same obligations as are conferred or imposed by the said sections of this Act on a fireman to whom the Fire Brigade Pensions Act, 1925, applies;

- (ii) the Secretary of State may by order approve, either with or without modifications, any scheme so submitted and when so approved the scheme shall be deemed to have had effect as from the commencement of this Act ;
- (iii) any scheme approved under this subsection may be varied by a subsequent scheme submitted and approved in like manner.

[1453]

"Fireman" is defined by section 14, *post*.

By section 24 (2) of the Fire Brigade Pensions Act, 1925 (13 Statutes 1108), when the provisions of that Act supersede a scheme under any other Act a fireman may give written notice that he wishes the scheme to continue to apply to him in lieu of the provisions of the Act.

By section 24 (1) (b) of the Fire Brigade Pensions Act, 1925 (13 Statutes 1108), where a local authority have in operation a scheme of pensions that is not less favourable than the provisions of that Act, the scheme shall remain in operation instead of the Act, unless and until the local authority otherwise resolve.

Miscellaneous and General

8. Constables on probation.—Where a person, having ceased during the period of the present emergency to serve as a constable on probation in order to serve in His Majesty's forces, resumes service as a constable during that period or within two months from the end of that period, he shall serve on probation for so much of his period of probation as was unexpired at the time when he ceased so to serve. [1454]

The following expressions in this section are defined by section 14, *post* :—

"period of the present emergency" ; "constable".

9. Constables need not be re-attested on resuming service.—Where a person, having ceased during the period of the present emergency to serve as a constable in order to serve in His Majesty's forces, resumes service as a constable during that period or within two months from the end of that period, it shall not be necessary for him, notwithstanding anything in any enactment, to make any declaration required to be made by him on accepting office as a constable. [1455]

The following expressions in this section are defined by section 14, *post* :—

"period of the present emergency" ; "constable".

The declaration of previous service required by section 26 of the Police Act, 1890 (12 Statutes 851), is rendered unnecessary.

10. Suspension of right to retire on pension.—(1) Notwithstanding the provisions of any enactment, during the period of the present emergency—

- (a) no chief officer of a police force or fire brigade shall be entitled to retire on pension except with the consent of the appropriate authority ; and
- (b) no other constable or fireman shall be entitled to retire on pension except with the consent of the chief officer of the police force or fire brigade to which he belongs. [1456]

(2) Where before the commencement of this Act or during the period of the present emergency—

- (a) the chief officer of a police force or fire brigade has given or gives written notice to the appropriate authority of his desire to retire on pension in circumstances which, but for the provisions of this section, would entitle him so to retire ; or
- (b) any other constable or fireman has given or gives written

notice to the chief officer of the police force or fire brigade to which he belongs of his desire to retire on pension in such circumstances as aforesaid ;

his right to retire at the end of the said period on a pension not less in amount than that to which he would have been entitled, had he retired on pension at the date when the notice was given, shall not be liable to forfeiture, except for such misconduct as would, had he been in receipt of a pension, have rendered the pension liable to forfeiture. [1457]

(3) In this section—

(a) the expressions “ chief officer of a police force ” and “ chief officer of a fire brigade ” have respectively the same meanings as in the Police Pensions Act, 1921, and the Fire Brigade Pensions Act, 1925 ; and

(b) the expression “ retire on pension ” means to retire without a medical certificate and receive a pension for life. [1458]

In addition to the definitions in subsection (3) the following expressions in this section are defined by section 14, *post* :—

“ period of the present emergency ” ; “ appropriate authority ” ; “ constable ” ; “ fireman ” ;

Provisions as to retirement are contained in sections 1 and 2 of the Police Pensions Act, 1921 (12 Statutes 873), and sections 1 and 2 of the Fire Brigade Pensions Act, 1925 (13 Statutes 1095).

Misconduct leading to forfeiture of a pension is dealt with by sections 15 and 16 of the Police Pensions Act, 1921 (12 Statutes 881), and sections 13 and 14 of the Fire Brigade Pensions Act, 1925 (13 Statutes 1102). It includes such crimes as lead to penal servitude or imprisonment for a term over three months (over one month for fireman), associating with thieves, carrying on an illegal business and trying to obtain a pension by fraud. In the case of policemen it also includes refusing information as to criminals, improper publication of information, and soliciting gifts.

11. War injuries to be deemed non-accidental injuries.—

For the purpose of the Police Pensions Act, 1921, and the Fire Brigade Pensions Act, 1925, and any other Act or any rules or scheme providing for the pensions of firemen, a war injury within the meaning of the Personal Injuries (Emergency Provisions) Act, 1939, shall be deemed to be a non-accidental injury. [1459]

By section 33 (3) of the Police Pensions Act, 1921 (12 Statutes 889) any injury intentionally inflicted or incurred in the performance of a duty involving special risks, is deemed to be a non-accidental injury. By section 23 (6) of the Fire Brigade Pensions Act, 1925 (13 Statutes 1107), any injury received while engaged in extinguishing a fire or while engaged in drill involving special risk, is deemed to be a non-accidental injury. Now by virtue of this section “ war injury ” is added to the injuries mentioned by those sections. Observe that the section applies to the constables and firemen who do not undertake war service.

12. Relief of firemen from suspension of pensions.—

Notwithstanding anything in section sixteen of the Fire Brigade Pensions Act, 1925, a pension receivable by a person under that Act shall not be suspended for any period for which he takes temporary service in any capacity under a local authority during the period of the present emergency. [1460]

The Fire Brigade Pensions Act, 1925, section 16 (13 Statutes 1103) permits suspension of a pension in such circumstances.

13. Provision as to persons called out or under training.

—(1) The provisions of Articles 13, 15 and 27 of the Reserve and Auxiliary Forces (Consequential Provisions) Order, 1939, shall not apply with respect to any part of any person's period of service as a person called out which falls within the period of the present emergency. [1461]

(2) The provisions of Articles 7 and 15 of the Military Training (Consequential Provisions) Order, 1939, shall not apply with respect to any part of any person's period of training which falls within the period of the present emergency. [1462]

(3) Where any person at the beginning of the period of the present emergency is serving as a person called out or as a person under training, and immediately before he was called out or immediately before the beginning of his period of training, as the case may be, he was serving as a constable or fireman, then—

(a) he shall be deemed for the purpose of this Act to have ceased to serve as a constable or fireman immediately after the beginning of the period of the present emergency in order to serve in His Majesty's forces ; and

(b) in the case of a person who at the beginning of the period of the present emergency is serving as a person under training—

(i) if and when, but not before, he fails to resume service as a constable or fireman before the expiration of two months from the end of the period which by virtue of subsection (1) of section two of this Act is treated as a period of approved service in his case, he shall be deemed for the purposes of Article 7 of the Military Training (Consequential Provisions) Order, 1939, not to have resumed duty as a constable or fireman at the end of his period of training ; and

(ii) in any other case he shall be deemed for the purposes of that Article to have resumed such duty at the end of his period of training. [1463]

(4) In this section the expression " called out " has the same meaning as in the Reserve and Auxiliary Forces (Consequential Provisions) Order, 1939, and the expressions " person under training " and " period of training " have respectively the same meanings as in the Military Training (Consequential Provisions) Order, 1939. [1464]

The following expressions in this section are defined by section 14, *post* :—

" period of the present emergency " ; " constable " ; " fireman " .

Articles 13, 15 and 27 of the Reserve and Auxiliary Forces (Consequential Provisions) Order, 1939, dated 23rd June, S.R. & O. 1939 No. 719, made under section 4 (1) of the Reserve and Auxiliary Forces Act, 1939, deal with the superannuation of police and firemen called up under that Act, with constables in the navy reserve, the army reserve or the air force reserve, and with the extension of the probation period of constables.

14. Interpretation.—In this Act the following expressions have the meanings hereby respectively assigned to them :—

" appropriate authority " means—

(a) in relation to a person who is serving or has ceased to serve as a constable, the police authority within the meaning of the Police Pensions Act, 1921, for the police force of which he is or was a member ; and

(b) in relation to a person who is serving or has ceased to serve as a member of the London Fire Brigade, the London County Council ; and

(c) in relation to any other person who is serving or has ceased to serve as a fireman, the fire authority within the meaning

of the Fire Brigades Act, 1938, for the fire brigade of which he is or was a member ;

“ appropriate pension enactment ”, in relation to a person who has ceased to serve as a constable, means the Police Pensions Act, 1921, as amended by any subsequent enactment and, in relation to a person who has ceased to serve as a fireman, means the Fire Brigade Pensions Act, 1925, as amended by any subsequent enactment ;

“ constable ” means a member of a police force within the meaning of the Police Pensions Act, 1921 ;

“ fireman ” means a professional fireman as defined by paragraph (2) of section twenty-three of the Fire Brigade Pensions Act, 1925, as amended by any subsequent enactment ;

“ grant ”, unless the context otherwise requires, means a pension, allowance or gratuity ;

“ period of the present emergency ” means the period beginning with the first day of September nineteen hundred and thirty-nine and ending with such day as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of this Act came to an end ;

“ service pay ”, in relation to any person, means his pay (including marriage, family and other similar allowances) in respect of his service in or with His Majesty’s forces during the period of the present emergency. [1465]

By section 30 and Schedule III, Part I, of the Police Pensions Act, 1921 (12 Statutes 888, 894), the police authority is as regards the City of London the Common Council, for the Metropolitan police district the Secretary of State [for Home Affairs], for a county the standing joint committee of the quarter sessions and the county council, for a borough the watch committee, and for the River Tyne within the limits of the Acts relating to the Tyne Improvement Commissioners the Tyne Improvement Commissioners.

By section 1 (1) of the Fire Brigades Act, 1938 (31 Statutes 586), the council of every county borough and of every county district is a “ fire authority ”, except in the administrative county of London, where it is the London County Council (section 27 ; *ibid.*, 601).

15. Provision as to Northern Ireland. [1466]

16. Short title, commencement and extent.—(1) This Act may be cited as the Police and Firemen (War Service) Act, 1939.

(2) This Act shall be deemed to have come into operation at the commencement of the period of the present emergency.

(3) No provision of this Act except the provisions of the last foregoing section shall extend to Northern Ireland. [1467]

The commencement of the period of the present emergency is September 1st, 1939. See the definition in section 14, *ante*.

ORDERS, CIRCULARS AND MEMORANDA

DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1939, No. 927, as amended

* * * * *

Public Order

39. Assistance of one police force by another.—(1) Notwithstanding any restriction or limitation imposed by or under any Act, the duty of

chief officers of police shall include the duty to carry into effect such general or special instructions as may from time to time be given to them by or on behalf of the Secretary of State for the purpose of securing that proper arrangements are made for the assistance of one police force by another.

(2) Without prejudice to the generality of the powers conferred by the preceding paragraph, instructions under that paragraph may in particular determine all or any of the following matters :—

- (a) the number of constables to be transferred on any occasion from one police force to another ;
- (b) the circumstances in which constables transferred by virtue of such instructions are to rejoin the force with which they were serving immediately before being so transferred ; and
- (c) the persons under whose orders constables so transferred to any police force are to act while serving with that force.

(3) Where, by virtue of instructions under paragraph (1) of this Regulation, any constables are transferred to any police force, then—

- (a) notwithstanding that they have not been sworn or made any declaration as members of that force, they shall be deemed for all purposes to be members of that force, and shall have powers, duties and privileges accordingly ; and
- (b) the authority to whose police force the constables are so transferred shall be liable to make to the authority from whose police force the constables are so transferred the like payments as they would have been liable to make if the constables, at the time of the transfer, had been added to the first mentioned police force in pursuance of an agreement between the said police authorities in the form of the general agreement as to mutual aid under section twenty-five of the Police Act, 1890.

(4) This Regulation shall, in its application to Scotland, have effect as if for the reference to the general agreement as to mutual aid under section twenty-five of the Police Act, 1890, there were substituted a reference to the agreement between police authorities in Scotland as to mutual aid which came into force on the first day of September, nineteen hundred and thirty-three.

(5) This Regulation shall not extend to Northern Ireland. [1468]

Chief officer of police is defined in Regulation 100 (1).

* * * *

THE POLICE REGULATIONS, 1939

S. R. & O., 1939, No. 780

July 10, 1939

I, the Right Honourable Sir Samuel Hoare, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred upon me by Section 4 of the Police Act, 1919, hereby make the following Regulation amending the Police Regulations :—

1. For paragraph (a) of Regulation 8 there shall be substituted the words :—“ *he carries on any business or without the consent of the Chief Officer of Police holds any other office or employment for hire or gain, or* ”

2. In Regulation 10 (1) the following words shall be deleted :—

" other than a constable who, on the 30th September, 1931, was serving in or training as a candidate for a police force to which these Regulations apply "

3. Regulation 10 (2) is hereby revoked.

4. The following Regulation shall be inserted after Regulation 20 :—

" 20A.—(1) The Chief Officer of Police may suspend from duty a member of the force against whom a report or complaint suggesting the commission of an offence against discipline is made ; such suspension from duty may continue until the disciplinary proceedings arising out of the said report or complaint have been concluded.

(2) Subject to the provisions of this Regulation, the Police Regulations shall continue to apply to a member of the force who is suspended from duty.

(3) A member of the force who has been suspended from duty shall not be entitled in respect of the period of suspension to pay or to uniform allowance, plain clothes allowance, detective allowance, extra duty allowance or temporary duty allowance, but shall be paid a suspension allowance at such rate not less than one-half and not exceeding two-thirds of his pay as the Chief Officer of Police may determine, provided that if he returns to duty without having been found guilty of any offence he shall receive his pay and any of the said allowances of which he was in receipt immediately prior to his suspension from duty, as from the date of his suspension from duty, less the amount paid to him by way of suspension allowance.

(4) Paragraph (2) of Regulation 51 is hereby revoked "

5. In Regulation 53 the words " or such shorter period as shall appear to the Chief Officer of Police or, in a Borough police force, the Watch Committee, to meet the circumstances of the case " shall be inserted at the end of paragraph (3).

6. In Regulation 59 the following words shall be inserted immediately after the words " for a period of 5 years ":—" or, if the constable has previously held a higher rank and has completed 22 years' service, for such shorter period, not being less than 12 months, as shall appear to the Chief Officer of Police or, in a Borough police force, the Watch Committee, to meet the circumstances of the case "

7. In Regulation 61 the words " of 20s. " shall be inserted immediately after the words " or other penalty less than a fine " in paragraph (3).

8. Regulation 63 is hereby revoked.

9. In Regulation 63A the words " Regulations 53-62 " shall be substituted for the words " Regulations 53-63 ".

10. In proviso (iii) to Regulation 70 (1) the word " lower " shall be inserted immediately before the word " rate " in line 7, and the words after " expenses " in line 8 shall be deleted.

* * * * *

[1469]

THE POLICE (WOMEN) REGULATIONS, 1939

S. R. & O., 1939, No. 781

July 10, 1939

I, the Right Honourable Sir Samuel Hoare, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred upon me by Section 4 of the Police Act, 1919, hereby make the following Regulation amending the Police (Women) Regulations :—

1. For paragraph (a) of Regulation 4 (1) there shall be substituted the words :—“ *she carries on any business or without the consent of the Chief Officer of Police holds any other office for hire or gain, or* ”

2. The following Regulation shall be inserted after Regulation 14 :—
 “ 14A.—(1) *The Chief Officer of Police may suspend from duty a woman member of the force against whom a report or complaint suggesting the commission of an offence against discipline is made ; such suspension from duty may continue until the disciplinary proceedings arising out of the said report or complaint have been concluded.*

(2) *Subject to the provisions of this Regulation, the Police (Women) Regulations shall continue to apply to a woman member of the force who is suspended from duty.*

(3) *A woman member of the force who has been suspended from duty shall not be entitled in respect of the period of suspension to pay or to uniform allowance, plain clothes allowance, detective allowance, extra duty allowance or temporary duty allowance, but shall be paid a suspension allowance at such rate not less than one-half and not exceeding two-thirds of her pay as the Chief Officer of Police may determine, provided that if she returns to duty without having been found guilty of any offence she shall receive her pay and any of the said allowance of which she was in receipt immediately prior to her suspension from duty, as from the date of her suspension from duty, less the amount paid to her by way of suspension allowance.*

(4) *Paragraph (2) of Regulation 42 is hereby revoked ”.*

3. In Regulation 44 the words “ *or such shorter period as shall appear to the Chief Officer of Police or, in a Borough police force, the Watch Committee, to meet the circumstances of the case* ” shall be inserted at the end of paragraph (3).

4. In Regulation 50 the following words shall be inserted immediately after the words “ *for a period of 5 years* ” :—“ *or, if the constable has previously held a higher rank and has completed 22 years’ service, for such shorter period, not being less than 12 months, as shall appear to the Chief Officer of Police or, in a Borough police force, the Watch Committee, to meet the circumstances of the case* ”.

5. In Regulation 52 the words “ *of 20s.* ” shall be inserted immediately after the words “ *or other penalty less than a fine* ” in paragraph (3).

6. Regulation 54 is hereby revoked.

7. In Regulation 55 the words “ *Regulations 44 to 53* ” shall be substituted for the words “ *Regulations 44 to 54* ”.

8. In proviso (iii) to Regulation 61 (1) the word “ *lower* ” shall be inserted immediately before the word “ *rate* ” in line 7, and the words after “ *expenses* ” in line 8 shall be deleted.

* * * * *

[1470]

SPECIAL CONSTABLES ORDER, 1939

S. R. & O., 1939, No. 1347

September 28, 1939

Whereas by the Special Constables Act, 1914, as amended by the Special Constables Act, 1923, power is conferred on His Majesty, by Order in Council, to make Regulations with respect to the appointment and position of special constables appointed under the Special Constables

Act, 1831, or under Section 196 of the Municipal Corporations Act, 1882, and by these Regulations to make such provisions as are mentioned in the Special Constables Act, 1914, as so amended :

And whereas it is necessary to make further provision with regard to the employment of special constables during the present war :

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

- (1) A special constable appointed before the date of this Order who serves as such in a whole-time capacity during the present war may be granted pay at the rate of 60s. per week, provided that a special constable who is granted pay under the provisions of this Order shall not be granted any allowance in consideration of wages lost under the provisions of clause (b) of subsection (1) of paragraph 7 of the Special Constables Order, 1923.
- (2) A special constable shall not be granted allowances in consideration of wages lost under the provisions of clause (b) of subsection (1) of paragraph 7 of the Special Constables Order, 1923, to an amount exceeding 60s. in any week.
- (3) This Order may be cited as the Special Constables Order, 1939.

[1471]

CASES

Dismissal—Confirmation by Watch Committee—Right of Member Dismissed—Policeman Acting as Fireman—Public Authority—Public Authorities Protection Act, 1893 (c. 61), s. 1—Police Act, 1919 (c. 46), s. 4 (1)—Police Regulations, 1920 (S. R. & O., 1920, No. 1484), regs. 15, 16, 18, 94.

K. was an acting-sergeant in the Liverpool city police force, and it was part of his duty as such to visit two constables on their respective beats and to record the fact of his having done so. It was alleged that he arranged with these men to be at a particular point at a certain time, so that he could visit them both at one and the same time, and that he made, and caused the constables to make, false entries in relation to these visits. It was also alleged that he had made false statements when questioned about these matters by his superior officers. In accordance with the regulations, K. was ordered to appear before the chief constable, and he made a personal explanation of these facts at the same time as the charges were gone into. The chief constable found some charges admitted and some proved, and dismissed K. from the force. K. appealed, as he had a right to do under the regulations, and, upon the appeal coming on for hearing before the watch committee, it appeared that, in consequence of a recent decision of the Court of Appeal, the procedure of the watch committee upon such appeals had to be reconsidered. While this question of procedure was being discussed, the chief constable was present in the room with the watch committee, but he was not so present when, at an adjourned hearing, the merits of K.'s appeal were gone into.

C. was a member of the same city police force, and he had been employed solely on fire brigade duty. By the Police Regulations, 1920, reg. 94, those regulations do not apply to those members of police forces who act exclusively as firemen. C. complained of an improper hearing

by the watch committee, and, as against such claim by C., the defendants relied upon the Public Authorities Protection Act, 1893, s. 1 :—

Held : (i) there had been no irregularity in the proceedings of the watch committee in K.'s case ;

(ii) the personal explanation given by K. to the chief constable was in accordance with the regulations, and, if the regulations required that the personal explanation should precede the inquiry by the chief constable, K. had waived his right to that ;

(iii) defendants were a public authority within the Public Authorities Protection Act, 1893, s. 1, and the act complained of was an act in the intended execution of their statutory duty ;

(iv) the Police Regulations did not apply to C., because he had been employed solely on fire brigade duty.—*KILDUFF v. WILSON*, COVENTRY *v. WILSON*, [1939] 1 All E. R. 429 ; 160 L. T. 103 ; 103 J. P. 59 ; 37 L. G. R. 155 ; Digest Supp.—C. A. [1472]

PUBLIC ASSISTANCE

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE	CASES :—	PAGE
Public Assistance (Casual Poor)		Cresswell and Cresswell v. Liverpool Corp., [1939] 2 All E. R.	
Amendment Order, 1939	722	824 — — — —	724
Public Assistance (Amendment)		Compton v. West Ham County Borough Council, [1939] 3 All	
Order, 1939	723	E. R. 193 — — — —	724

ORDERS, CIRCULARS AND MEMORANDA

PUBLIC ASSISTANCE (CASUAL POOR) AMENDMENT ORDER, 1939

S. R. & O., 1939, No. 242

(98246)

March 8, 1939

Whereas by the Public Assistance (Casual Poor) Order, 1931 (in this order referred to as "the order of 1931") made by the Minister of Health under the Poor Law Act, 1930, regulations are prescribed in regard to the administration of the relief of the casual poor ;

And whereas it is expedient that the order of 1931 should be amended as hereinafter mentioned :

Now therefore, the Minister of Health, in exercise of his powers under the Poor Law Act, 1930, and of all other powers him enabling in that behalf, hereby makes the following order :

General

1. This order may be cited as the Public Assistance (Casual Poor) Amendment Order, 1939, and shall come into operation on the 1st day of May, 1939.

2. The order of 1931 shall be amended as follows :—

(a) The following provision shall be added as a proviso to paragraph 1 of the First Schedule :—

Provided that the dinner served to inmates of an

institution of which the casual ward forms part may, if comprising meat or fish, be served in place of that prescribed ;

- (b) The Dietary Table set out in Part I of the Schedule to this order shall be substituted for the Dietary Table set out in paragraph 1 of the First Schedule to the order of 1931 ;
- (c) The Dietary Table set out in Part II of the Schedule to this order shall be substituted for the Dietary Table set out in paragraph 7 of the First Schedule to the order of 1931.

SCHEDULE

PART I

Dietary of Casuals

Class.	Description.	Supper.	Breakfast.	Dinner.
1	Men and boys 12 years old or over.	Bread, 8 oz. ; margarine or dripping, 1 oz. ; jam, marmalade or treacle, $1\frac{1}{2}$ oz. ; hot tea, coffee, cocoa or broth, 1 pint.	Bread, 8 oz. ; margarine or dripping, 1 oz. ; hot tea, coffee, cocoa or broth, 1 pint.	Bread, 8 oz. ; cooked or tinned meat, 2 oz. ; cheese, 2 oz. ; potatoes (hot), 4 oz. ; tea, 1 pint.
2	Women and girls 12 years old or over.	Bread, 6 oz. ; margarine or dripping, 1 oz. ; jam, marmalade or treacle, $1\frac{1}{2}$ oz. ; hot tea, coffee, cocoa or broth, 1 pint.	Bread, 6 oz. ; margarine or dripping, 1 oz. ; hot tea, coffee, cocoa or broth, 1 pint.	Bread, 6 oz. ; cooked, or tinned meat, 2 oz. ; cheese, 2 oz. ; potatoes (hot), 4 oz. ; tea, 1 pint.
3	Children under 12 years.	In addition to the above some vegetable other than potatoes shall be provided at one meal in each day. Such meals as may, subject to the approval of the Council, be prescribed by the Medical Officer.		

PART II

Class.	Description.	Ration.
1	Men and boys 12 years old or over.	Bread, 8 oz. ; cheese, 2 oz. ; meat, 2 oz.
2	Women and girls 12 years old or over.	Bread, 6 oz. ; cheese, 2 oz. ; meat, 2 oz.
3	Children 8 years old or over, but under 12 years old.	Bread, 4 oz. ; butter, 1 oz. ; cheese, 1 oz.
4	Children 3 years old or over, but under 8 years old.	Milk, $\frac{1}{2}$ pint ; bread, 3 oz. ; butter, 1 oz.
5	Children 10 months or over, but under 3 years old.	Milk, $\frac{1}{2}$ pint ; sugar, $\frac{1}{2}$ oz. ; bread, 2 oz.
6	Children under 10 months old.	Milk, $\frac{1}{2}$ pint ; sugar, $\frac{1}{2}$ oz.

* * * * *

[1473]

PUBLIC ASSISTANCE (AMENDMENT) ORDER, 1939

S. R. & O., 1939, No. 484

(100505)

April 24, 1939

Whereas by the Public Assistance Order, 1930, made by the Minister of Health under the Poor Law Act, 1930, provision is made in relation

to the discharge of the poor law functions of councils of counties and county boroughs in regard to the management and relief of the poor in institutions ;

And whereas it is expedient that further provision should be made :

Now therefore the Minister of Health in exercise of his powers under the Poor Law Act, 1930, and of all other powers enabling him in that behalf, hereby makes the following order :

1. This order may be cited as the Public Assistance (Amendment) Order, 1939.

2. Article 55 of the Public Assistance Order, 1930, shall have effect as if the following paragraph were inserted after paragraph (k) thereof, that is to say :—

“(kk) refuses to comply with the instructions of the Master to leave or be removed from the institution in order that he should thenceforth be relieved in some other institution specified in a written direction to that effect given to the Master by the Public Assistance Officer duly authorised in that behalf”.

* * * * *

[1474]

CASES

Relief—Duty to Grant Relief—Enforcement—Public Assistance Committee—Recommendation of Medical Officer—How Far Binding on Committee—Discretion of Committee—Poor Law Act, 1930 (c. 17), s. 15 (1)—Public Assistance Order, 1930 (S. R. & O., 1930, No. 185), reg. 167—Relief Regulation Order, 1930 (S. R. & O., 1930, No. 186), reg. 10.

The female plaintiff had, with the financial assistance of the public assistance committee, had her teeth extracted. She then applied to the committee to provide her with false teeth, and the district medical officer recommended that she should be so provided. That recommendation was in turn duly approved by the dental consultant. The committee considered that application and refused it, and their refusal was confirmed by defendant corporation. She then brought this action, alleging, *inter alia*, that such refusal was a breach of statutory duty :—

Held : (i) the recommendation of the district medical officer, even if approved by the consultant, did not bind the public assistance committee to provide the artificial teeth at the public expense ;

(ii) the public assistance committee had a discretion to refuse such an application, and in exercising such discretion they must have regard to (i) both the medical and financial need of applicant, and (ii) the general expense of such relief to the corporation. It would be wrong, however, for them to lay down specific rules—for example, that men over fifty-five years of age should never be granted free treatment.

Semble : an action for damages does not lie against a poor law authority for failure to grant relief. The proper remedy is an action for an order of *mandamus*.—*CRESSWELL AND CRESSWELL v. LIVERPOOL CORPN.*, [1939] 2 All E. R. 824 ; Digest Supp. [1475]

Poor Law Relieving Officer—Contract of Service—Recovery of Pay—Regulations of Council Relating to Sick Pay—Public Authorities Protection Act, 1893 (c. 61), s. 1—Public Assistance Order, 1930 (S. R. & O., 1930, No. 185), arts. 142 (1), 162.

Plaintiff was employed as a senior poor law relieving officer by defendant council. The latter had made regulations in 1913 and 1919

governing, *inter alia*, the payment of salary to their officers during sickness. At the time of his appointment in 1934, plaintiff did not know of these regulations, and they were not brought to his notice. By reason of sickness, he was unable to perform any of his duties from 6th December, 1935, to 13th September, 1936. He was paid his full salary until 7th March, 1936, but thereafter, until his return to work, he was paid at half-rate scale. He claimed the difference between this half rate and the full rate of salary, contending that no term authorising such reduction could be implied into his contract of service, and, further, that, by the Public Assistance Order, 1930, article 162, defendant council had no power to decrease his salary without the consent of the Minister of Health, and that no such consent had been obtained. Defendant council contended that it was an implied term of the contract that it was made subject to their regulations. They also pleaded the Public Authorities Protection Act, 1893, on the ground that plaintiff's appointment was one which they were bound to make under the Public Assistance Order, 1930, article 142 :—

Held : (i) there was no implied term in the contract of service that plaintiff was employed subject to defendant council's regulations as to sick pay, and he was, therefore, entitled to his full salary during the whole period of his absence through illness ;

(ii) plaintiff's claim was barred in respect of salary accruing due more than six months before the issue of the writ, defendant council being entitled to the protection of the Public Authorities Protection Act, 1893.—*COMPTON v. WEST HAM COUNTY BOROUGH COUNCIL*, [1939] Ch. 771 ; [1939] 3 All E. R. 193 ; 108 L. J. Ch. 300 ; 160 L. T. 633 ; 103 J. P. 271 ; 55 T. L. R. 827 ; 83 Sol. Jo. 477 ; 37 L. G. R. 495 ; Digest Supp. [1476]

PUBLIC ASSISTANCE COMMITTEE

See PUBLIC ASSISTANCE.

PUBLIC AUTHORITIES PROTECTION ACT

See ACTIONS BY AND AGAINST LOCAL AUTHORITIES ; EDUCATION ;
POLICE ; PUBLIC ASSISTANCE.

PUBLIC SERVICE VEHICLES

See ROAD TRAFFIC.

PUBLIC UTILITY UNDERTAKINGS

STATUTES :—

Civil Defence Act, 1939, ss. 36-42
[see pp. 47 *et seq.*, ante]

ORDERS, CIRCULARS AND MEMO-

RANDA :—

Defence (General) Regulations,
1939, Regulation 56 - - 726

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ORDERS, CIRCULARS AND MEMORANDA

DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1939, No. 927, as amended

* * * * *

56. Public Utility Undertakings.—(1) As respects any public utility undertaking, the competent authority, and any person authorised by the competent authority to act under this Regulation, may give directions for securing that the undertaking is carried on in such manner as the competent authority thinks proper in the interests of the public safety, the defence of the realm or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community; and the competent authority may by order relax any obligation or limitation imposed on the undertakers by, or by virtue of, any Act or other instrument determining their functions, and in particular may authorise the undertakers to make, in connection with the carrying on of the undertaking, charges in excess of, or in addition to, those which they would otherwise be authorised to make.

For the avoidance of doubt it is hereby declared that this paragraph authorises the giving of such directions as aforesaid in relation to any undertaking, notwithstanding that the undertaking is being carried on under the last preceding Regulation by a person authorised in that behalf by the competent authority.

(2) With a view to ascertaining whether any directions given under this Regulation with respect to a public utility undertaking are complied with, any person authorised in that behalf by the competent authority may at any time enter and inspect any premises used or appropriated for the purposes of the undertaking.

(3) Any person concerned in the management, or employed in connection with the carrying on, of a public utility undertaking shall, if requested by or on behalf of the competent authority so to do, produce or furnish to such authority or person as may be specified in the request such books or other documents, or, as the case may be, such estimates, returns, accounts or other information, being documents or information in his possession relating to the undertaking, as may be so specified.

(4) In this Regulation the expression "the competent authority" means—

(a) in relation to any undertaking for the supply of electricity or any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour or pier undertaking, the Minister of Transport;

(b) in relation to any undertaking for the supply of water, any sewerage or sewage disposal undertaking or any undertaking for the collection and disposal of refuse, the Minister of Health;

(c) in relation to the undertaking of a drainage authority, the Minister of Agriculture and Fisheries; or

(d) in relation to any other undertaking, the Board of Trade, or if His Majesty in Council designates, for the purposes of this Regulation, any Minister or authority in respect of such an undertaking, that Minister or authority.

(5) This Regulation shall, in its application to Scotland, have effect as if for the reference to the Minister of Health there were substituted a reference to the Secretary of State, and as if sub-paragraph (c) of paragraph (4) were omitted.

(6) This Regulation shall, in its application to Northern Ireland, have effect as if for references to the Minister of Transport, the Minister of Health and the Minister of Agriculture and Fisheries there were substituted references to the Secretary of State. [1477]

The following Orders have been made under this Regulation :—The Railways (Notice of Accidents) Modification Order, 1939 (S.R. & O., 1939, No. 1214); the Shoeburyness Gas Order, 1939 (S.R. & O., 1939, No. 1376); The Port of London Authority's (Elections and Appointments) Order, 1939 (S.R. & O., 1939, No. 1483) (see the title CORPORATIONS); Conway Gas Order, 1939 (S.R. & O., 1939, No. 1598); The Local Authorities Public Service Vehicles Order, 1939 (S.R. & O., 1939, No. 1676); Defence (Gas Charges) Order, 1939 (S.R. & O., 1939, No. 1788).

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RABBITS

See ANIMALS.

RAILWAYS

See also BRIDGES.

STATUTES :—

Civil Defence Act, 1939, s. 40 [*see* p. 50, *ante*].

RATES AND RATING

STATUTES :—

Civil Defence Act, 1939, s. 69
[*see* p. 71, *ante*]

CASES :—

Metropolitan Electric Supply Co., Ltd. v. Buckingham County Valuation Committee; Metropolitan Electric Supply Co., Ltd. v. Surrey (North Western) Area Assessment Committee, [1939] 1 All E. R. 36

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R. v. Thanet and District Assessment Area Assessment Committee and Kent County Valuation Committee, *Ex p.* Isle of Thanet Gas Light and Coke Co., [1939] 2 All E. R. 489, D. C. — — — 728

R. v. Camberwell Borough Assessment Committee, *Ex p.* Metropolitan Housing Corp., Ltd., [1939] 2 All E. R. 283, D. C. — — — 729

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CASES

Basis of Assessment—Special Classes of Property—Electricity Undertaking—Ring Main—Apportionment of Annual Value between Areas Where Tapped and not Tapped.

An electric supply company transmitted electricity by means of a ring main passing through several rating areas. In one such area this

main was not tapped for supply to any subsidiary distributor, but in a second area it was so tapped. The question for decision was the basis of apportionment of the rateable value of the main as between these two areas. The rateable value of the whole undertaking was sufficient to allow a reasonable rateable value in areas where the main was only indirectly productive if the rateable value in those areas was calculated on the contractors' basis and to allow a reasonable rateable value in areas where it was directly productive :—

Held: the rateable value of the whole undertaking being sufficient for the purposes above stated, it ought not to be apportioned evenly over its whole length, but, in areas where it is not tapped for distribution, it ought to be valued on the "contractors' basis", and the residue of the rateable value should then be apportioned between the areas in which it is tapped.

R. v. Mile End Old Town (Churchwardens and Overseers) (1847), 10 Q. B. 208; 38 Digest 552, 925), appealed.—METROPOLITAN ELECTRIC SUPPLY CO., LTD. *v.* BUCKINGHAM COUNTY VALUATION COMMITTEE; METROPOLITAN ELECTRIC SUPPLY CO., LTD. *v.* SURREY (NORTH WESTERN) AREA ASSESSMENT COMMITTEE, [1939] 1 K. B. 601; [1939] 1 All E. R. 36; 108 L. J. K. B. 225; 160 L. T. 497; 103 J. P. 44; 55 T. L. R. 308; 83 Sol. Jo. 135; Digest Supp. [1478]

Valuation List—Amendment—Objection to Assessments as "unfair and incorrect"—Proposed Amendment by Valuation Committee—No Grounds Specified—Whether "a proposal for the amendment of the list"—"Person aggrieved"—Rating and Valuation Act, 1925 (c. 90), s. 37 (1), (2).

The Rating and Valuation Act, 1923, s. 37 (1) provides as follows : "Any person (including the county valuation committee and any local authority) who is aggrieved by the incorrectness or unfairness of any matter in the valuation list for the time being in force, or by the inclusion therein or omission therefrom of any matter, or by the valuation as a single hereditament of a building or a portion of a building occupied in parts, or otherwise with respect to the list, may make in manner provided by this section a proposal for the amendment of the list". Sect. 37 (1) provides as follows : "Every proposal made under this section must . . . specify the grounds on which the proposal amendment is supported". A county valuation committee proposed to amend the current assessments in respect of hereditaments occupied by a gas undertaking on the ground that the assessments were unfair and incorrect. The proposal contained the following words : "Amendment proposed. To such an amount as may be determined on an approved apportionment of the *cumulo* value of the undertaking having regard to the accounts relating thereto in respect of the year ended 31st December, 1937". The accounts had not been seen by the valuation committee. A letter from the county valuer, which accompanied the proposal, stated as follows : "Similar proposals have been made in respect of all such similar undertakings for gas, water and electricity which have not quite recently been under consideration, the intention being to investigate, in the light of the latest available accounts, how far the existing assessments require amendment". On behalf of the occupiers, it was contended that the proposal was not in compliance with s. 37 (2) of the Act of 1925, as the grounds on which it was supported were not clearly set out :—

Held: although a county valuation committee in a proper case could seek either a reduction or an increase of an assessment, the

present proposal did not indicate whether a reduction or an increase was suggested or the nature and the *quantum* thereof, and did not, therefore, comply with the requirement of s. 37 (2) of the Act of 1925, as it failed to specify the grounds of the proposed amendment.—*R. v. THANET AND DISTRICT ASSESSMENT AREA ASSESSMENT COMMITTEE AND KENT COUNTY VALUATION COMMITTEE, Ex p. ISLE OF THANET GAS LIGHT AND COKE CO.*, [1939] 2 K. B. 640; [1939] 2 All E. R. 489; 108 L. J. K. B. 515; 160 L. T. 509; 103 J. P. 186; 55 T. L. R. 648; 83 Sol. Jo. 547; 37 L. G. R. 345; Digest Supp.—D. C. [1479]

Metropolis—Supplemental List—Alteration in Value of Hereditament—Dwelling-house Let to One Tenant Changed into Tenement House Let to Two Tenants—Increased Rent—Whether “from any cause increased in value”—Valuation (Metropolis) Act, 1869 (c. 67), s. 47.

Applicants were the owners of a dwelling-house which was let to a weekly tenant at a rent of £1 8s., inclusive of rates, and the tenant sublet part of it. Later, the tenant ceased to be in rateable occupation of the whole of the dwelling-house, and it was let by the owners to two separate tenants at rents amounting in the aggregate to £1 13s. per week. The local authority thereupon made and sent to the assessment committee a provisional list wherein the gross value and net annual and rateable values were shown as having increased from £41 and £29 to £47 and £34 respectively, and the dwelling-house was described as a tenement house. Objection was taken by applicants to the provisional list upon the ground that no “cause”, within the meaning of s. 47 of the Act of 1869, existed to justify such an entry in the list:—

Held: as there was a change from an ordinary dwelling-house to a tenement house, which involved not only a change of value but also a change of classification, the rating authority and the assessment committee were entitled to conclude that there was an increase in value from some cause within the meaning of s. 47.—*R. v. CAMBERWELL BOROUGH ASSESSMENT COMMITTEE, Ex p. METROPOLITAN HOUSING CORPN., LTD.*, [1939] 2 All E. R. 283; 83 Sol. Jo. 457; 37 L. G. R. 308; Digest Supp.—D. C. [1480]

REGIONAL COMMISSIONERS

See AIR RAID PRECAUTIONS.

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES

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ORDERS, CIRCULARS AND MEMORANDA

PETROLEUM-SPIRIT (CONVEYANCE) REGULATIONS, 1939

S. R. & O., 1939, No. 1209

October 30, 1939

In pursuance of the powers conferred on me by section 6 of the Petroleum (Consolidation) Act, 1928, I hereby make the following Regulations as to the conveyance of petroleum-spirit by road and for protecting persons or property from danger in connection with such conveyance :—

PART I

PROVISIONS RELATING TO CONVEYANCE OF PETROLEUM-SPIRIT IN TANK WAGONS OR TANK TRAILERS

Construction and maintenance

1. Any tank wagon or tank trailer used for the conveyance of petroleum-spirit shall comply with the provisions contained in Parts I and III of the Schedule to these Regulations, and together with its connections and fittings shall be maintained in good condition.

Precautions during filling or emptying tanks

2. Except during the operation of filling the tank, the filling pipe of a tank wagon or tank trailer shall at all times be kept securely closed and, unless the filling pipe is either provided with a liquid seal or fitted with a device to form an efficient flame-trap to a design approved by a government inspector, the filling pipe cover shall be kept locked and the keys shall not be carried on the wagon or trailer.

3. Except during the operation of filling or emptying the tank, the dipping pipe of a tank wagon or tank trailer shall at all times be kept securely closed.

4. During the operation of filling or emptying the tank of a tank wagon or tank trailer the following precautions shall be observed :—

(a) The vehicle shall be constantly attended by the driver or some other competent person of not less than eighteen years of age.

(b)—(i) If the vehicle is mechanically propelled, the engine shall be stopped the whole time the operation of filling or emptying is proceeding and shall not be run until all tanks have been securely closed.

(ii) If the vehicle is horse-drawn, the horses shall be removed

and the wheels securely scotched before the operation of filling or emptying is begun.

- (c) Adequate provision shall be made to prevent the accumulation of a dangerous static charge of electricity.
- (d) The petroleum-spirit shall be delivered to or from the vehicle only through sound metal piping or sound hose.
- (e) Before the delivery of petroleum-spirit into any tank is begun, the person in charge of the vehicle shall take all reasonable measures to ascertain that the tank will receive the quantity proposed to be delivered.

Safety space to be unobstructed

5. No equipment or other article shall be placed in the space of not less than six inches required by paragraph 4 of the Schedule to these Regulations to be left between the tank and the fire-resisting shield of a mechanically-propelled tank wagon.

Restrictions on conveyance of petroleum-spirit in tins, etc.

6.—(1) No can, drum or other vessel containing petroleum-spirit shall be carried on any tank wagon or tank trailer used for the conveyance of petroleum-spirit except a tank wagon which is a composite vehicle so constructed as to comply with the provisions relating to conveyance on vehicles other than tank wagons as well as with the provisions relating to conveyance in tank wagons.

(2) No such composite vehicle shall be used for conveying petroleum-spirit to or from any place within the administrative county of London or the county borough of West Ham unless it has been approved by a government inspector.

Attachment of trailers

7.—(1) A trailer other than a tank trailer shall not be attached to a tank wagon.

(2) No trailer shall be attached to a tank wagon of a capacity exceeding 1,500 gallons.

(3) No trailer attached to a tank wagon shall be employed within the administrative county of London or the county borough of West Ham.

PART II

PROVISIONS RELATING TO CONVEYANCE OF PETROLEUM-SPIRIT ON VEHICLES OTHER THAN TANK WAGONS OR TANK TRAILERS

Construction and maintenance

8. Any vehicle on which petroleum-spirit is conveyed shall comply with the provisions contained in Parts II and III of the Schedule to these Regulations, and shall be maintained in good condition :

Provided that in the event of a breakdown of any vehicle conveying petroleum-spirit, a mechanically propelled vehicle which does not comply with the provisions of paragraph 11 of the Schedule may be used for the purpose of conveying the petroleum-spirit to its destination, if a vehicle complying with those provisions is not available within a reasonable time.

Provisions as to the load

9.—(1) The petroleum-spirit shall be conveyed in strong metal vessels in good condition and securely closed so as to prevent leakage.

(2) No vessel other than the fuel tank of the vehicle shall be filled with or emptied of petroleum-spirit on a vehicle used, or intended to be used, for conveying petroleum-spirit.

(3) If empty vessels which have contained petroleum-spirit are carried on the same vehicle with vessels containing petroleum-spirit, they shall be securely closed.

10.—(1) The load shall be protected from sparks, lighted matches or fire from without by a cover, whether fixed or loose, of fire-resisting material.

(2) No part of the load shall project beyond either side or the back of the vehicle, nor above the level of the top of the fire-resisting shield required by paragraph 11 or 13, as the case may be, of the Schedule to these Regulations.

Attachment of trailers

11. A trailer not used, or intended to be used, exclusively for conveying petroleum-spirit shall not be attached to any vehicle conveying petroleum-spirit.

PART III

PROVISIONS OF GENERAL APPLICATION

General provisions as to trailers

12.—(1) A trailer conveying petroleum-spirit shall not be attached to any vehicle other than a motor tractor or a vehicle used, or intended to be used, exclusively for conveying petroleum, and not more than one trailer shall be attached to any such tractor or vehicle at any one time.

(2) A motor tractor shall not be used to draw a trailer conveying petroleum-spirit unless (a) the exhaust system of the tractor is wholly in front of the fire-resisting shield required by paragraph 13 of the Schedule to these Regulations, and (b) if electric lighting is employed on the tractor, the provisions of paragraph 14 of the Schedule are complied with.

(3)—(a) A vehicle conveying petroleum other than petroleum-spirit shall not be used to draw a trailer conveying petroleum-spirit unless that vehicle complies with all the provisions of these Regulations relating to vehicles conveying petroleum-spirit.

(b) The total quantity of petroleum and petroleum-spirit conveyed by that vehicle and the trailer together shall not exceed 2,500 gallons.

Constant attendance on vehicles

13.—(1) Every vehicle while engaged in the conveyance of petroleum-spirit by road shall, except while halted in a place for the time being approved for the purpose by the local authority empowered by the Petroleum (Consolidation) Act, 1928, to grant petroleum-spirit licences, be constantly attended—

(a) if the vehicle, not being halted,

(i) contains a quantity of petroleum-spirit exceeding 1,500 gallons, or

(ii) has a trailer attached to it,

by at least two persons of not less than eighteen years of age; or

(b) in any other case by at least one such person :

(2) For the purposes of this Regulation—

- (a) a trailer while attached to another vehicle shall be regarded as forming part of the vehicle to which it is attached and not as being a separate vehicle ;
- (b) the driver may, while present with the vehicle, be reckoned as one person attending it.

Precautions against fire and explosion

14. All persons engaged in the loading, unloading or conveyance of petroleum-spirit shall observe all precautions necessary for preventing fire or explosion.

15. A person while on or attending to any vehicle conveying petroleum-spirit shall not smoke nor carry any matches or lighters.

16. No fire or artificial light capable of igniting inflammable vapour shall be allowed on any vehicle conveying petroleum-spirit, nor shall any explosive substance or any substance or article capable of causing fire or explosion be carried on any such vehicle.

17. A supply of sand or other efficient means of extinguishing fire shall be carried in an easily accessible position on every vehicle conveying petroleum-spirit.

Protection of drains and sewers

18. Care shall be taken to prevent the escape of any petroleum-spirit into any drain or sewer.

Replenishing fuel tanks

19.—(1) The fuel tank of a mechanically propelled vehicle shall not be filled or replenished with petroleum-spirit on a highway direct from a vehicle conveying petroleum-spirit in bulk, except with the sanction of the local authority empowered by the Petroleum (Consolidation) Act, 1928, to grant petroleum-spirit licences, and then only at such places and under such conditions as the local authority may approve.

(2) The fuel tank of a public service vehicle shall not be filled or replenished with petroleum-spirit direct from a vehicle carrying petroleum-spirit in bulk while any passenger is in or on the said public service vehicle.

Hawking petroleum-spirit

20.—(1) If a vehicle is used for the hawking of petroleum-spirit and the petroleum-spirit is drawn off from any vessel in the course of such hawking, the following conditions shall be observed :—

- (a) The quantity of petroleum-spirit conveyed at any one time shall not exceed twenty gallons :
- (b) Any petroleum, other than petroleum-spirit, which is carried on the vehicle shall for the purposes of these Regulations be deemed to be petroleum-spirit.

(2) The provisions of paragraphs 11 and 14 of the Schedule to these Regulations shall not apply to a vehicle used in accordance with the foregoing conditions.

(3) The delivery of petroleum-spirit to premises licensed under the Petroleum (Consolidation) Act, 1928, shall not be deemed to be the hawking of petroleum-spirit for the purpose of this Regulation.

Responsibility of Employers

21. The owner of a vehicle used for the conveyance of petroleum-spirit who employs any person in connection with such conveyance shall furnish a copy of these Regulations to, or affix a copy thereof in some place where it can be conveniently read by, any such person and shall take all other measures necessary to ensure that any such person is acquainted with and carries out the provisions of these Regulations.

Enforcement

22.—(1) It shall be the duty of every local authority empowered by the Petroleum (Consolidation) Act, 1928, to grant petroleum-spirit licences to enforce within their district the provisions of these Regulations, and the owner of a vehicle used for the conveyance of petroleum-spirit and his employees shall provide all reasonable facilities to an authorised officer of such local authority for the purpose of ascertaining that the provisions of these Regulations are duly observed.

(2) Every such local authority shall institute and carry on such proceedings in respect of breaches of the Regulations as may be necessary to secure the observance thereof; and an inspector appointed by the local authority for the purposes of the Petroleum (Consolidation) Act, 1928, may, if so authorised by the local authority, institute and carry on any proceedings under the Regulations on behalf of the authority.

(3) The expenses incurred by a local authority in the enforcement of these Regulations shall be defrayed as part of the general expenses of the local authority under the Public Health Acts or in Scotland out of the burgh general assessment in the case of burghs, and the general county purposes assessment in the case of counties.

(4) Paragraph (2) of this Regulation shall not apply to Scotland.

Application

23.—(1) With the exception of Regulation 6, none of these Regulations shall apply to the conveyance of petroleum-spirit on any vehicle for use only in the propulsion of that vehicle.

(2) These Regulations shall not apply to the conveyance of petroleum-spirit on a vehicle (not being a tank wagon, a tank trailer, a public service vehicle,* or a vehicle used for the hawking of petroleum-spirit to which Regulation 20 applies) in a quantity not exceeding thirty gallons of petroleum-spirit in securely closed containers of a capacity not exceeding two gallons or in securely closed metal cans or drums of a capacity not exceeding ten gallons, or in a quantity not exceeding fifty gallons of petroleum-spirit contained in a single securely closed steel barrel.

(3) The provisions of these Regulations shall be in addition to, and not in derogation of, the provisions of any Regulations made by the Minister of Transport under the powers conferred upon him by the Road Traffic Act, 1930, or any other Act.

Power of Secretary of State to relax provisions

24.—(1) If the Secretary of State is satisfied that in respect of any class of vehicle or any mode of conveyance any of the provisions of these Regulations may be safely suspended or relaxed, he may by

* Note.—It is recommended that in the case of a public service vehicle, the number of spare two-gallon tins carried exclusively for the use of the vehicle should not exceed ten, and that the tins, whether full or empty, should be securely closed.

Order authorise such suspension or relaxation for such period and under such conditions as he may think fit.

(2) Any such Order may be revoked or varied by the Secretary of State at any time.

Interpretation

25.—(1) In these Regulations—

- (a) unless the context otherwise requires, the expression “vehicle” includes a trailer;
- (b) the expression “trailer” does not include a trailer which forms part of an articulated vehicle, which for the purposes of these Regulations is deemed to be one vehicle;
- (c) the “tank” of a tank wagon or tank trailer means one or more tanks on the same chassis.
- (d) the expression “public service vehicle” has the meaning assigned to it by section 121 of the Road Traffic Act, 1930.

(2) A tank, compartment of a tank, can, drum or other container shall not be deemed to be of a capacity greater than that specified in any limitation upon its capacity prescribed in these Regulations, by reason only of its construction to contain the maximum quantity so specified with a reasonable margin to allow for the expansion of the petroleum-spirit in the event of a rise in temperature.

(3) The Interpretation Act, 1889, shall apply for the purpose of the construction of these Regulations as it applies for the purpose of the construction of an Act of Parliament.

Citation and Revocation

26. These Regulations may be cited as the Petroleum-Spirit (Conveyance) Regulations, 1939, and shall come into force on the 1st December, 1939, as from which date the Petroleum-Spirit (Conveyance) Regulations, 1932, and the Exemption Orders made thereunder on the 21st April, 1934, and the 11th January, 1937, shall be revoked.

SCHEDULE

PART I

TANK WAGONS AND TANK TRAILERS

1. The body of the vehicle, including its fittings, and the tank shall be constructed strongly and (except in the case of a horse-drawn tank wagon) of fire-resisting materials.

2.—(1) The capacity of a tank wagon shall not, in any case, exceed 2,500 gallons, nor shall the capacity exceed 1,500 gallons, unless the general design of the vehicle used shall have been approved by order of the Secretary of State as suitable for the conveyance of quantities exceeding 1,500 gallons.

(2) The capacity of a tank trailer shall not exceed 800 gallons.

3. A mechanically propelled vehicle shall comply with the following provisions :—

(1) The engine shall be of an internal combustion type.

(2) A quick action cut-off valve shall be fitted to the fuel feed pipe in an easily accessible position, which shall be clearly marked :

Provided that this sub-paragraph shall not apply to a vehicle in which a gravity feed tank is not incorporated in the fuel feed system and the fuel feed pump is driven directly from the engine of the vehicle or electrically with a cut-off switch, if the ignition

switch or the cut-off switch, as the case may be, is in an easily accessible position which is clearly marked.

- (3) The engine, fuel tank, and electric batteries shall be efficiently screened from the body of the vehicle by a fire-resisting shield carried down to within twelve inches of the ground and upwards to the level of the top of the tank, or, if the roof of the cab is of fire-resisting construction and is without an opening, to the level of the top of the cab :

Provided that—

- (a) the fuel tank of a vehicle, other than an articulated vehicle, may be behind the shield if—
 - (i) a fuel feed apparatus, placed in front of the shield, is used to lift the contents from the fuel tank ; and
 - (ii) the fuel tank is protected from blows by the frame or by stout steel guards, and the filling hole cover is provided with a lock ; and
 - (b) the fuel tank of any vehicle may be behind the shield if the fuel used in the engine does not give off an inflammable vapour at a temperature of less than one hundred and fifty degrees Fahrenheit.*
- (4) If windows are provided in the shield, they shall be fitted in fire-resisting framing with wired glass or other heat-resisting material approved by a government inspector, and shall not be capable of being opened.

- (5) The exhaust system shall be wholly in front of the shield.

4. A space of not less than six inches between the tank and the fire-resisting shield of a mechanically propelled tank wagon shall be left clear and unobstructed except for any part of the framework or valances used to screen the sides of the tank :

Provided that—

- (a) the ends of such valances shall be insulated from the shield by a layer of heat-resisting material ; and
- (b) the said space of not less than six inches shall not be obstructed at the top or bottom by turning the valances inwards.

5.—(1) The tank, if not a component part of the frame of the vehicle shall be securely attached thereto :

Provided that—

- (a) in the case of a horse-drawn tank wagon the tank shall be securely fastened to the body of the vehicle ; and
- (b) in the case of a composite vehicle to which Regulation 6 applies a removable tank securely fastened to a cradle may be used.

(2) The tank, if of more than 600 gallons capacity, shall be divided into self-contained compartments, no one of which shall contain more than 600 gallons.

6.—(1) Either (a) each filling pipe shall (i) be carried down as nearly as possible to the bottom of the tank and terminate in such a way as to provide at all times a liquid seal at the bottom of the pipe or (ii) be fitted with a device to form an efficient flame trap to a design approved by a government inspector, or alternatively (b) the covers over the filling pipes shall be provided with locks :

Provided that the alternative provision (b) shall not apply to tank wagons of a capacity exceeding 1,000 gallons used for conveying petroleum-spirit to or from any place within the administrative county of London or the county borough of West Ham.

* The standard method for testing Flash-Points of such fuels is given in "Standard Methods of Testing Petroleum and its Products," published by the Institution of Petroleum Technologists.

(2) Any openings in the barrel of the filling pipes other than the orifices at the top and bottom shall be covered with fine wire gauze of not less than 28 meshes to the linear inch.

7. The dipping pipes shall be carried down to the bottom of the tank, and any openings in them other than the upper orifice shall be covered with fine wire gauze of not less than 28 meshes to the linear inch.

8. The ventilating openings, if separate from the dipping pipes, shall be covered with fine wire gauze of not less than 28 meshes to the linear inch, protected by covers when not in use.

9.—(1) The draw-off pipes shall be fitted with strong and secure taps and screw caps, and (unless a syphon system of emptying the tank is employed) with internal valves.

(2) (a) Taps at the rear of a vehicle shall be enclosed in a strong locked box of hard wood or other suitable material, and taps at the side of a vehicle shall either be so enclosed or be provided with locks and protected against blows by the frame of the vehicle or by stout steel guards.

(b) In the case of a mechanically propelled tank wagon or a tank trailer, all taps at the rear shall in addition be protected by the rear cross member of the frame, and protection afforded also when necessary to the lower rear portion of the tank.

(c) This sub-paragraph shall not apply to a composite vehicle to which Regulation 6 applies, if the taps do not project beyond the back of the vehicle and are adequately protected against damage from collision.

PART II

VEHICLES OTHER THAN TANK WAGONS AND TANK TRAILERS

10. The vehicle shall be constructed strongly and with sides and back of adequate height :

Provided that in the case of a horse-drawn vehicle the foregoing requirement as to the sides and back of the vehicle shall not apply if (a) the load is securely fastened to the vehicle and (b) all vessels of two gallons capacity and under containing petroleum-spirit are packed in wooden cases.

11. A mechanically propelled vehicle shall comply with the provisions of paragraph 3 of this Schedule subject to the following modification, viz. : that the fire-resisting shield shall be carried upwards at least to the level of the top of the cab.

PART III

GENERAL

12. A trailer shall have not less than two axles, which shall not be in line transversely.

13. A trailer which is attached to a motor tractor shall be efficiently screened from the tractor by a fire-resisting shield carried down to within twelve inches of the ground and upwards to the level of the top of the tank or load. If the tractor is wider than the trailer, this shield shall be carried back to a distance of not less than two feet on each side unless the sides of the trailer themselves provide an efficient fire-resisting shield.

14. If electric lighting is employed on any vehicle, the following provisions shall be complied with :—

- (1) The pressure shall not exceed sixteen volts.
- (2) The circuit shall be heavily insulated and shall be independent of the chassis.
- (3) The wiring shall be so fixed and protected as to reduce as far as possible risk of damage.
- (4) The battery shall be in an easily accessible position.
- (5) Means of cutting off the current close to the battery by a double pole switch or other suitable method shall be provided in an easily accessible position.
- (6) If the vehicle is required to be fitted with a fire-resisting shield, the

generator, battery, switches and fuses shall be carried in front of the shield.

Note.—Section 6 (2) of the Petroleum (Consolidation) Act, 1928, provides that :—

“ If any person contravenes or attempts to contravene any Regulation made under this section, he shall be liable on summary conviction to a fine not exceeding twenty pounds for every day on which the offence occurs or continues, and the Court before whom any person is convicted under this subsection may order that the petroleum-spirit in respect of which the offence was committed and any vessel in which it is contained be forfeited or otherwise dealt with in such manner as the Court thinks fit.” [1481]

THE ALKALI, &c., WORKS ORDER, 1939

S. R. & O., 1939, No. 1299

(99939)

September 27, 1939

Whereas by section 2 of the Alkali, &c., Works Regulation Act, 1906 (in this order referred to as “ the Act of 1906 ”) provision is made for preventing the escape and discharge of noxious or offensive gases as defined in section 27 of that Act from alkali works and by section 7 of the Act of 1906 similar provision is made with respect to other works specified in the first schedule to the Act of 1906 ;

And whereas by section 4 of the Public Health (Smoke Abatement) Act, 1926 (in this order referred to as “ the Act of 1926 ”) it is provided that the Minister of Health (in this order referred to as “ the Minister ”) may after a public inquiry and after consultation with any local authorities or other interests concerned make orders—

- (a) extending the list of noxious or offensive gases mentioned in section 27 of the Act of 1906 ; and
- (b) extending the list of works mentioned in the first schedule to the Act of 1906 ;

And whereas by the Alkali, &c., Works Orders, 1928 and 1935 (in this order referred to as “ the orders of 1928 and 1935 ”) the Minister exercised the said powers conferred upon him by section 4 of the Act of 1926 :

Now therefore the Minister after a public inquiry and after such consultation as is mentioned above by virtue of the powers conferred upon him by section 4 of the Act of 1926 and in pursuance of all other powers enabling him in that behalf hereby orders as follows :—

1. This order may be cited as the Alkali, &c., Works Order, 1939, and this order and the orders of 1928 and 1935 may be cited together as the Alkali, &c., Works Orders, 1928 to 1939.

2. This order shall come into operation on the first day of October, 1939.

3. The expression “ noxious or offensive gas ” in the Act of 1906 shall include in addition to the gases or fumes mentioned in section 27 of the Act of 1906 the gases or fumes mentioned in the first schedule to this order.

4. The list of works mentioned in the first schedule to the Act of 1906 shall be extended so as to include the works specified in the second

schedule to this order and the item appearing therein shall be deemed to have been added to and shall form part of the first schedule to the Act of 1906.

FIRST SCHEDULE

Extension of list of gases and fumes to be included within the expression "noxious or offensive gas" in the Act of 1906 :—

Cadmium and its compounds.

SECOND SCHEDULE

SCHEDULED WORKS

Additional Works

27. Lead Works, that is to say, works in which, by the application of heat, lead is extracted from any material containing lead or its compounds, and works in which compounds of lead are manufactured from metallic lead or its compounds by dry processes which give rise to dust or fume.

* * * * *

[1482]

RELIEVING OFFICER

See PUBLIC ASSISTANCE.

REMUNERATION

See OFFICERS OF LOCAL AUTHORITIES.

REPAIR OF WAR DAMAGE

See BUILDING, HOUSING.

ROAD TRAFFIC

ORDERS, CIRCULARS AND MEMORANDA :—		PAGE	Emergency Powers (Defence)		PAGE
Defence (General) Regulations, 1939, Regulations 72, 73	740		Standing Vehicles Order, 1939	745	
Motor Vehicles (Authorisation of Special Types) Order (No. 1), 1937, Amendment (No. 2) Order, 1939	742		CASES :—		
Road Vehicles (Tyres of Land Tractors) Order, 1939	743		Durnell v. Scott, [1939] 1 All E. R. 183, D. C.	746	
Public Service Vehicles (Drawing of Gas-Producer Trailers) Order, 1939	743		Re London-Portsmouth Trunk Road (Surrey) Compulsory Purchase Order (No. 2), [1939] 2 All E. R. 464, D. C.	746	
Motor Vehicles (Authorisation of Special Types) Order, 1939	743		Pagett v. Mayo, [1939] 2 All E. R. 362, D. C.	747	
Motor Vehicles (Armed Forces) (Variation of Speed Limit) Regulations, 1939	744		Stanley v. Thomas, [1939] 2 All E. R. 636, D. C.	747	
Local Authorities Public Service Vehicles Order, 1939	744		Dark v. Western Motor and Carriage Co. (Bristol), Ltd., [1939] 1 All E. R. 143, D. C.	748	
			Wells & Son, Ltd. v. Sidery, [1939] 4 All E. R. 54, D. C.	748	
			Geraghty v. Morris, [1939] 2 All E. R. 269, D. C.	749	

ORDERS, CIRCULARS AND MEMORANDA

DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1939, No. 927, as amended

* * * * *

72. Modification of enactments relating to road vehicles and drivers thereof.—(1) In any proceedings which, by virtue of subsection (1) of section four, or section seventy-seven, of the Road Traffic Act, 1930, or by virtue of subsection (1) of section thirty-one of the Road Traffic Act, 1934, may be taken in respect of the driving of any vehicle by a person not licensed for the purpose, it shall be a defence for the defendant to prove that at the material time the vehicle was being driven under an authority granted generally or specially for the purposes of this paragraph by or on behalf of the Minister of Transport.

(2) If it appears to the Minister of Transport that, in the interests of the defence of the realm or the efficient prosecution of war, it is no longer expedient to require compliance with the statutory provisions relating to the granting of public service vehicle licences or road service licences under Part IV of the Road Traffic Act, 1930, or to the granting of licences for the purposes of Part I of the Road and Rail Traffic Act, 1933, he may by order direct that in any proceedings which may be taken in respect of the use of a vehicle on any occasion in contravention of section sixty-seven or section seventy-two of the Road Traffic Act, 1930, or section one of the Road and Rail Traffic Act, 1933, as the case may be, it shall be a defence to prove that the vehicle was on that occasion being used under an authority granted generally or specially for the purposes of this paragraph by or on behalf of the Minister of Transport.

(3) The operation of subsection (3) of section sixty-two of the Road Traffic Act, 1930, as amended by section twenty-seven of the Road and Rail Traffic Act, 1933 (which subsection provides that an order under the said section sixty-two for varying the number or limits of traffic areas shall be of no effect unless and until it has been approved by a resolution of each House of Parliament) shall be suspended during the continuance in force of this Regulation.

(4) The Minister of Transport may by order direct that section nineteen of the Road Traffic Act, 1930, as amended by section thirty-one of the Road and Rail Traffic Act, 1933, shall not apply in relation to the driving of motor vehicles used for the purposes of any such work as may be specified in the order, being work which appears to the said Minister to be essential for the defence of the realm or the efficient prosecution of war or to be essential to the life of the community; and any such order may be made so as to apply either to all motor vehicles so used or to any specified class of motor vehicles so used, and may in relation to drivers of vehicles to which the order applies, impose such restrictions and obligations with respect to hours of work and hours for rest as the Minister thinks proper.

(5) Nothing in section thirteen of the Finance Act, 1920, or in section five of the Roads Act, 1920, shall apply in relation to any vehicle being used for the purposes of His Majesty's service or any services designated for the purposes of this paragraph by the Minister of Transport, being services which appear to him to be essential for the defence of the realm or the efficient prosecution of war or to be essential

to the life of the community, if and so long as there is exhibited on the vehicle, in accordance with directions given by the said Minister, a certificate that the vehicle is being so used in a case of emergency.

(6) This Regulation shall not extend to Northern Ireland. [1488]

Section 4 (1) of the Road Traffic Act, 1930 (23 Statutes 611), penalises the offences of driving a motor vehicle without a driving licence and employing an unlicensed driver.

Section 77 of the Road Traffic Act, 1930 (*ibid.*, 665), penalises the offences of driving or acting as conductor of a public service vehicle without a driver's or conductor's licence under Part IV of the Act and the offence of employing such an unlicensed person.

Section 31 (1) of the Road Traffic Act, 1934 (27 Statutes 55), penalises the offences of driving a heavy goods vehicle without a licence for the purpose or a licence under Part IV of the 1930 Act to drive all types of single-deck public service vehicles, and employing such an unlicensed driver.

Licences for the purposes of Part I of the Road and Rail Traffic Act, 1933, *i.e.*, public carriers' licences, general carriers' licences and private carriers' licences, required by persons using vehicles for carriage of goods for hire or reward or in connection with trade or business. See 26 Statutes 872 *et seq.*

Road Traffic Act, 1930, ss. 67, 72.—S. 67 of the Act (23 Statutes 658) prohibits the use of a public service vehicle without a public service vehicle licence (*supra*), and s. 72 of the Act (*ibid.*, 661) prohibits the use of a stage carriage or express carriage without a road service licence.

Section 1 of the Road and Rail Traffic Act, 1933 (26 Statutes 872), prohibits the use of a goods vehicle without a carrier's licence of one of the three classes referred to, *supra*.

For s. 62 (3) of the Road Traffic Act, 1930, as amended by s. 27 of the Road and Rail Traffic Act, 1933, see 23 Statutes 656, and 26 Statutes 892.

73. Modification of enactments of Parliament of Northern Ireland relating to road vehicles and drivers thereof.—(1) In any proceedings which, by virtue of subsection (1) of section three or subsection (1) of section twelve of the Motor Vehicles (Traffic and Regulation) Act (Northern Ireland), 1926 (in this Regulation referred to as "the Act of 1926"), are taken in respect of the driving of any vehicle by a person not licensed for the purpose, it shall be a defence for the defendant to prove that at the material time the vehicle was being driven under an authority granted generally or specially for the purposes of this paragraph by or on behalf of the Secretary of State.

(2) If it appears to the Secretary of State that, in the interests of the defence of the realm or the efficient prosecution of war, it is no longer expedient to require compliance with the statutory provisions relating to the granting of public service vehicle licences under Part II of the Act of 1926, or to the granting of licences for the purposes of Part III of the Motor Vehicles and Road Traffic Act (Northern Ireland), 1934, he may by order direct that in any proceedings which may be taken in respect of the use of a vehicle on any occasion in contravention of section eleven of the Act of 1926 (as amended by section six of the Motor Vehicles and Road Traffic Act (Northern Ireland), 1929, or section twenty-four of the Motor Vehicles and Road Traffic Act (Northern Ireland), 1934, as the case may be) it shall be a defence to prove that the vehicle was on that occasion being used under an authority granted generally or specially for the purposes of this paragraph by or on behalf of the Secretary of State.

(3) The Secretary of State may by order direct that section fourteen of the Motor Vehicles and Road Traffic Act (Northern Ireland), 1934, shall not apply in relation to the driving of motor vehicles used for the purposes of any such work as may be specified in the order, being work which appears to the Secretary of State to be essential for the defence of the realm or the efficient prosecution of war or to be essential to the life of the community; and any such order may be made so as to apply either to all motor vehicles so used or to any specified class of motor vehicles so used, and may, in relation to drivers of vehicles to which the order applies, impose such restrictions and obligations with respect

to hours of work and hours for rest as the Secretary of State thinks proper.

(4) Nothing in section thirteen of the Finance Act, 1920, or in section five of the Roads Act, 1920, shall apply in relation to any vehicle being used for the purposes of His Majesty's service or any services designated for the purposes of this paragraph by the Secretary of State, being services which appear to him to be essential for the defence of the realm or the efficient prosecution of war or to be essential to the life of the community, if and so long as there is exhibited on the vehicle, in accordance with directions given by the Secretary of State, a certificate that the vehicle is being so used in a case of emergency.

(5) This Regulation shall extend to Northern Ireland only.

[1484]

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MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) ORDER (NO. 1), 1937, AMENDMENT (NO. 2) ORDER, 1939

S. R. & O., 1939, No. 598

May 17, 1939

Whereas under the powers conferred upon him by section 3 of the Road Traffic Act, 1930, the Minister of Transport on the 11th day of May, 1937, made the Motor Vehicles (Authorisation of Special Types) Order (No. 1), 1937 (hereinafter referred to as "the Principal Order").

And whereas the Principal Order was amended by The Motor Vehicles (Authorisation of Special Types) Order (No. 1), 1937, Amendment Order, 1939.

And whereas it is expedient that the provisions of the Principal Order should be further modified in manner hereinafter appearing.

Now, therefore, the Minister of Transport in exercise of the powers so conferred upon him as aforesaid and of all other powers thereto him enabling hereby orders as follows :—

1. This Order may be cited as "The Motor Vehicles (Authorisation of Special Types) Order (No. 1), 1937, Amendment (No. 2) Order, 1939".

2. The Principal Order shall have effect as though paragraph (b) of the definition of "engineering plant" in sub-paragraph (1) of paragraph 3 thereof were omitted and the following were inserted in its place :—

"(b) a trailer (including a tar boiler, road material mixing apparatus for the mechanical spreading of road material upon which no load is carried except when it is actually engaged in spreading operations, but excluding any other trailer used for the carriage of road material or similar burden), used for the purposes of, or a living van or office hut used in connection with, the construction, maintenance and repair of roads, or"

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament.

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[1485]

ROAD VEHICLES (TYRES OF LAND TRACTORS) ORDER, 1939

S. R. & O., 1939, No. 1397

September 28, 1939

In virtue of his powers under the Defence Regulations, 1939, the Minister of Transport hereby orders as follows :—

The provisions of regulation 31 of the Motor Vehicles (Construction and Use) Regulations, 1937 (which require that every wheel of a motor tractor shall be equipped with pneumatic tyres or tyres of soft or elastic material) shall not apply to a land tractor not exceeding two tons in weight operated under the control of a War Agricultural Executive Committee or of the Department of Agriculture for Scotland or any person duly authorised by that Department if the tyre of every driving wheel is not less than 4 inches in width and is smoothed-soled.

This Order may be cited as "The Road Vehicles (Tyres of Land Tractors) Order, 1939".

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[1486]

THE PUBLIC SERVICE VEHICLES (DRAWING OF GAS- PRODUCER TRAILERS) ORDER, 1939

S. R. & O., 1939, No. 1398

September 29, 1939

In virtue of his powers under the Defence Regulations, 1939, the Minister of Transport hereby orders as follows :—

Notwithstanding anything contained in Regulation 12 of the Public Service Vehicles (Equipment and Use) Provisional Regulations (No. 2), 1931, a public service vehicle may draw a trailer used only for the carriage of gas containers supplying, or plant and materials producing, gas for the propulsion of the engine of the drawing vehicle.

This Order may be cited as "The Public Service Vehicles (Drawing of Gas-Producer Trailers) Order, 1939".

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[1487]

MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) ORDER, 1939

S. R. & O., 1939, No. 1399

September 29, 1939

Whereas by Section 3 of the Road Traffic Act, 1930, the Minister of Transport (hereinafter called "the Minister") may by order authorise, subject to such restrictions and conditions as may be specified in the Order, the use on roads of special motor vehicles or trailers or special types of motor vehicles or trailers which are constructed either for special purposes or for tests or trials.

Now, therefore, the Minister in exercise of the powers so conferred upon him and of all other powers thereto him enabling hereby orders as follows :—

1. This Order may be cited as "The Motor Vehicles (Authorisation of Special Types) Order, 1939".

2. The Minister authorises the use on roads, for the purpose of tests or trials, of the vehicles of which the index marks and registration numbers assigned by the London County Council in accordance with the provisions of Regulation 15 of the Road Vehicles (Registration and Licensing) Regulations, 1924, are PG.7965 and PG.7984, notwithstanding that such vehicles do not comply with the requirements of Regulation 33 of the Motor Vehicles (Construction and Use) Regulations, 1937.

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament.

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[1488]

THE MOTOR VEHICLES (ARMED FORCES) (VARIATION OF SPEED LIMIT) REGULATIONS, 1939

S. R. & O., 1939, No. 1450

August 31, 1939

Whereas by section 121 of the Road Traffic Act, 1930 (hereinafter referred to as "the Act"), the Minister of Transport (hereinafter referred to as "the Minister"), may, in relation to any vehicles owned by the Admiralty, the War Department, or the Air Ministry and used for naval, military or Air Force purposes or in the case of vehicles so used while being driven by persons for the time being subject to the orders of any member of the Armed Forces of the Crown, by Regulations, subject to such conditions as may be specified in the Regulations, vary the provisions of the first Schedule to the Act.

Now, therefore, the Minister in exercise of the powers so conferred upon him and of all other powers thereto him enabling hereby orders as follows :—

1. These Regulations may be cited as "The Motor Vehicles (Armed Forces) (Variation of Speed Limit) Regulations, 1939", and shall come into operation forthwith.

2. In relation to any of the vehicles specified in the above recited section of the Act, the provisions of the First Schedule to the Act shall be varied in such manner as to impose no speed limit.

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament.

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[1489]

LOCAL AUTHORITIES PUBLIC SERVICE VEHICLES ORDER, 1939

S. R. & O., 1939, No. 1676

November 9, 1939

In virtue of his powers under Regulation 56 of the Defence Regulations, 1939, the Minister of Transport hereby orders as follows :—

1. In this Order :—

“ local authority ” means a local authority to whom section 101 of the Road Traffic Act, 1930, applies ;

“ road service permit ” means a permit issued in accordance with Article 4, 5 and 6 of the Emergency Powers (Defence) Road Vehicles and Drivers' Order, 1939.

2. A local authority may run public service vehicles on any road in accordance with a road service permit notwithstanding that consent of the Traffic Commissioners may not have been obtained in accordance with the provisions of section 101 of the Road Traffic Act, 1930.

3. This Order may be cited as “ The Local Authorities Public Service Vehicles Order, 1939 ”.

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[1490]

EMERGENCY POWERS (DEFENCE) STANDING VEHICLES ORDER, 1939

S. R. & O., 1939, No. 1720

November 21, 1939

In virtue of his powers under the Defence Regulations, 1939, the Minister of Transport hereby orders as follows :—

1. In this Order the expression “ hours of darkness ” has the meaning assigned to it in the Road Transport Lighting Act, 1927, and the word “ road ” means any road to which the public has access.

2. Except with the permission of a police constable in uniform no person shall cause or permit any vehicle to remain at rest on any road during the hours of darkness otherwise than with the left or nearside of the vehicle as close as may be to the edge of the carriageway.

3. This Order shall not apply to

(1) any vehicle when it is being used for fire brigade, ambulance or police purposes or for defence purposes (including civil defence purposes) if the observance thereof would be likely to hinder the use of the vehicle for the purpose for which it is being used on that occasion, or

(2) any vehicle standing on a part of a road specially set aside for the parking of vehicles or as a stand for hackney carriages where compliance with this Order would conflict with the provisions of the Order, Regulations or Byelaws governing the use of such part of a road for that purpose, or

(3) any vehicle waiting to set down or pick up passengers in accordance with regulations made or directions given by a Chief Officer of Police in regard to such setting down or picking up, or

(4) any vehicle in any road in which vehicles are allowed to proceed in one direction only.

4. This Order may be cited as “ The Emergency Powers (Defence) Standing Vehicles Order, 1939 ”, and shall come into force on the 1st December, 1939.

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[1491]

CASES

Speed Limit—Driving at Speed “dangerous to the public”—Motor Van—Dangerous in Circumstances of the Case—Road Traffic Act, 1930 (c. 43), s. 11 (1).

Respondent was charged with having unlawfully driven a motor vehicle on a road at a speed which was dangerous to the public having regard to the circumstances, contrary to the Road Traffic Act, 1930, s. 11 (1). The vehicle was a 50-cwt. furniture van laden with furniture, for which the maximum speed allowed by law is 30 m.p.h. It was being driven along a main trunk road on a Sunday, when there was an amount of traffic on the road at the time of the test, at a speed varying from 35 m.p.h. to 50 m.p.h. along a part of the road where there were cross-roads and ten bends. The justices held that, although the van was being driven at a speed in excess of the maximum speed for that class of vehicle, it was not, in view of the type of the road and the situation of the test, a speed dangerous to the public which was on the road, or to the public which might reasonably have been expected on the road, and they therefore dismissed the charge. Thereupon this appeal was brought:—

Held: as, on the facts found, the vehicle was being driven at a speed which was dangerous to the public, having regard to the traffic “which might reasonably have been expected to be on the road,” the offence charged was proved.—*DURNELL v. SCOTT*, [1939] 1 All E. R. 183; 83 Sol. Jo. 196; Digest Supp.—D. C. [1492]

Trunk Roads—Improvement—Compulsory Purchase Order—Trunk Road Lowered to Pass under Cross-road—Powers of Minister—Public Local Inquiry—Procedure—Evidence of Necessity or Purpose of Purchase—Trunk Roads Act, 1936 (c. 5), ss. 3 (1), 6 (3).

A public local inquiry into a proposed compulsory purchase order affecting the London-Portsmouth trunk road was held by an inspector. At the inquiry, a representative of the Minister of Transport made an opening statement giving figures of fatal accidents on the portion of the road to which the order related and the reasons thereof, and figures to show congestion of traffic at the junction of the Kingston by-pass and the Hook Road, and stating how it was proposed to alter or improve the road after the acquisition of the lands included in the order, including the excavation of the central portion of the by-pass and making such central portion pass under the Hook Road with two double traffic lines as in a tunnel, and having a road on either side of such central portion level with and connecting with the Hook Road, all in accordance with detailed plans produced by the representative. At the end of the opening statement, which concluded the case put forward in support of the order, counsel proposed to cross-examine the representative on behalf of the objectors to the order, but the inspector ruled that he was only present to give explanations, was not a witness, and could not be cross-examined. Later, it was contended on behalf of the objectors that the proposal, if carried out, would cause serious loss and damage to the trade carried on by them at fully licensed premises situate on the north-west corner of the junction of the Kingston by-pass and the Hook Road, because of the diversion of traffic underground and out of sight, and that such scheme was not within the powers of the Minister of Transport under the relevant statutes. Evidence was also given by other objectors criticising adversely the proposal to carry the by-pass

under the Hook Road as proposed, from the point of view of the safety and convenience of traffic. Nevertheless, the Minister of Transport proposed to carry out the scheme as originally devised. It was now contended that the scheme was *ultra vires*, and that, as there was no evidence upon which the Minister of Transport could properly make the compulsory purchase order for the purpose of carrying such scheme into effect, the compulsory-purchase order should be quashed:—

Held: (i) as the Trunk Roads Act, 1936, s. 3, invests the Minister with all the powers of a highway authority, full powers were thereby conferred upon him, not only to carry out improvements of the trunk roads under his charge, but also to construct new roads. Moreover, as it could not be said that the proposed subway was not an "improvement" within the meaning of the Act, and as the proposed dual carriageways were plainly "new roads", the Minister was not acting beyond his lawful powers;

(ii) as the object of the inquiry was to hear the objections to the proposals, it was not essential that evidence should be called on behalf of the Minister, and the inquiry was, therefore, not invalidated in any sense. Nor was there anything in the conduct of the inquiry to justify the quashing of the compulsory-purchase order.—*Re LONDON-PORTSMOUTH TRUNK ROAD (SURREY) COMPULSORY PURCHASE ORDER (No. 2)*, 1938, [1939] 2 K. B. 515; [1939] 2 All E. R. 464; 108 L. J. K. B. 555; 160 L. T. 554; 55 T. L. R. 640; 83 Sol. Jo. 458; Digest Supp.—D. C. [1493]

Reporting Accidents—Accident Due to Presence of Vehicle on Road—Damage to Stone Wall and to Vehicle—Failure of Driver to Report Accident to Police or to Give Name and Address—Whether Damage or Injury to any Person, Vehicle or Animal—Road Traffic Act, 1930 (c. 43), s. 22.

Respondent's vehicle, while being driven by him, skidded at a corner and hit a stone wall, the property of a third party. The stone wall and the vehicle were both damaged. Respondent did not give his name and address to any person, nor did he report the accident to the police, and he was charged with having thereby unlawfully acted in contravention of the Road Traffic Act, 1930, s. 22, which applies to an accident "whereby damage or injury is caused to any person, vehicle or animal". The justices upheld respondent's contention that the damage to the stone wall was not damage within the meaning of s. 22, and dismissed the charge. Thereupon this appeal was brought:—

Held: as the damage to the wall was not damage "caused to any person, vehicle or animal" within the meaning of s. 22 of the Act of 1930, the justices were right in dismissing the charge.—*PAGETT v. MAYO*, [1939] 2 K. B. 94; [1939] 2 All E. R. 362; 108 L. J. K. B. 501; 160 L. T. 398; 103 J. P. 177; 55 T. L. R. 598; 83 Sol. Jo. 418; 37 L. G. R. 300; Digest Supp.—D. C. [1494]

Motor Vehicle—Charge of Dangerous Driving—Notice of Intended Prosecution sent to Accused's Residence by Registered Post—Accused Known to be in Hospital at Time as Result of Accident—Notice Returned Marked "unable to deliver"—Fresh Notice Served Personally out of Time—Whether Adequate Notice—Road Traffic Act, 1930 (c. 43), s. 21.

Respondent was charged with unlawfully driving a motor vehicle on a certain road in a manner dangerous to the public, contrary to the Road Traffic Act, 1930, s. 11. In consequence of the accident which gave rise to the charge, respondent was rendered unconscious, and

therefore could not be warned, pursuant to s. 21 of the Act of 1930, at the time of the alleged offence that the question of prosecuting him would be considered. He was removed to a hospital in the district, where he was detained from 8th September, 1938, till 18th September, 1938. On 18th September, appellant, the superintendent of police, sent a notice of intended prosecution to respondent by registered post, addressed to respondent's usual place of residence, although appellant knew that respondent was then in hospital. The period of fourteen days within which notice of intended prosecution is required to be given by s. 21 of the Act of 1930 expired on 22nd September. On 14th September, respondent was interviewed at the hospital by a police sergeant. On 23rd September, the notice was returned to appellant, marked: "Unable to deliver." Respondent was discharged from hospital on 18th September, but did not return to his home until 23rd September. On 26th September, when respondent was visiting the hospital, a notice of intended prosecution was served on him personally. Between 8th September and 23rd September, respondent's place of residence was closed and unoccupied. The justices dismissed the charge, holding that there had been no compliance with s. 21, which requires service of notice of an intended prosecution on an accused person, or that it be "sent by registered post to him," within fourteen days of the commission of the offence:—

Held: as the words in s. 21 of the Act of 1930 were "sent to him," and not "sent to him and received by him," the requirement of s. 21 was, in the circumstances of the present case, duly complied with.—*STANLEY v. THOMAS*, [1939] 2 K. B. 462; [1939] 2 All E. R. 636; 160 L. T. 555; 103 J. P. 241; 55 T. L. R. 711; 83 Sol. Jo. 360; 37 L. G. R. 418; Digest Supp.—D. C. [1495]

Motor Vehicles—Licence—General Trade Licence—Motor Ambulance—Used for Towing Trailer with Motor-boat—Whether Vehicle used for Unauthorised Purpose—Roads Act, 1920 (c. 72), s. 12—Road Vehicles (Registration and Licensing) Regulations, 1924 (S. R. & O., 1924, No. 1462), reg. 29D.

Respondents were charged with using a vehicle upon a public road under a general trade licence for a purpose other than a purpose for which the vehicle was authorised to be used under such licence—namely, the towing of a trailer laden with a motor-boat, contrary to the Road Vehicles (Registration and Licensing) Regulations, 1924 (S. R. & O., 1924, No. 1462), reg. 29D, and the Roads Act, 1920, s. 12. The justices dismissed the charge, holding that the use of the vehicle for the conveyance of the motor-boat to the premises of respondents for the purpose of overhauling the propeller-shaft and the exhaust system and of either fitting a new engine or overhauling the existing engine was a purpose connected with respondents' business as repairers of mechanically propelled vehicles, within the meaning of the regulations. Thereupon this appeal was brought:—

Held: as the motor-boat was not connected with the business of a manufacturer or repairer of mechanically propelled vehicles within the meaning of the regulations, the offence charged was proved.—*DARK v. WESTERN MOTOR AND CARRIAGE CO. (BRISTOL), LTD.*, [1939] 1 All E. R. 143; 83 Sol. Jo. 195; Digest Supp.—D. C. [1496]

Motor Vehicle Constructed to Carry Goods—Persons not to Drive for Continuous Period of more than Five Hours and One Half—Driver only

Actually Driving for Part of Period of Employment—Road Traffic Act, 1930 (c. 43), s. 19.

Appellants were road transport contractors who employed a driver for the purpose of driving a motor lorry. The activities of the driver were divided as follows. He commenced work at 7 a.m.; from 8 a.m. until 8.5 a.m. he drove the lorry from appellants' premises to a wharf where the lorry was loaded without him taking part in the actual loading; from 11.30 a.m. until 12.5 p.m. he drove the lorry from the wharf to a warehouse where it was unloaded from 12.5 p.m. until 2.10 p.m., the driver again taking no part in the actual work of unloading. From 2.10 p.m. until 2.30 p.m., the driver drove the lorry back to appellants' premises where he was immediately released from duty. The actual time of driving occupied little less than one hour, and on these facts appellants were convicted for having permitted their driver to "drive for a continuous period of more than five hours and one half," contrary to the Road Traffic Act, 1930, s. 19, the magistrate including the time the driver had been standing by while the lorry was being loaded. On behalf of appellants it was contended that the time spent by the driver in standing by was not time spent in "driving." On behalf of respondent it was contended that the driver was employed in "driving" within the meaning of the Road Traffic Act, 1930, s. 19, for a period of seven hours and one half:—

Held: the driver was not employed in "driving" while standing by, and therefore was not so employed for a continuous period of more than five hours and one half.—WELLS & SON, LTD. v. SIDERY, [1940] 1 K. B. 85; [1939] 4 All E. R. 54; 108 L. J. K. B. 871; 161 L. T. 352; 103 J. P. 375; 56 T. L. R. 25; 83 Sol. Jo. 891; Digest Supp.—D. C. [1497]

Driving-Test Regulations—Test Conducted in Accordance with Regulations—Jurisdiction—Road Traffic Act, 1934 (c. 50), s. 6 (6).

Respondent in pursuance of certain regulations made under the Road Traffic Acts, submitted himself to a test of competence to drive a motor vehicle. The test was conducted by appellant, a driving-test examiner appointed by the Minister of Transport, who was not satisfied that respondent was competent to drive without danger to and with due consideration for other users of the road a vehicle of the same class or description as that on which he was tested. Thereupon, pursuant to s. 6 (6) of the Act of 1934, respondent applied to a court of summary jurisdiction to determine whether or no the test was properly conducted in accordance with the regulations. On behalf of appellant, it was contended that the jurisdiction conferred on the magistrate by s. 6 (6) of the Act of 1934 was limited merely to an inquiry whether or not the test was conducted by an authorised person in conformity with the regulations, and did not give any right of appeal whatever against the decision of a duly appointed examiner who had conducted a test in conformity with the regulations, and that, as there was no evidence that the test was not conducted in conformity with the regulations, the complaint should be dismissed. On behalf of respondent, it was contended that the provisions of s. 6 (6) enabled the magistrate to inquire into the circumstances of the test itself and to determine whether or not appellant was justified in refusing to pass respondent, and had acted reasonably in so doing, and had conducted the test properly in accordance with the regulations, and that otherwise the word "properly" in the subsection would be unnecessary and mere

surplusage. The magistrate found as a fact that the test was conducted by appellant in accordance with the regulations, but upheld the contentions on behalf of respondent, and ordered that, as a proper decision as a result of the test had not been reached in accordance with the regulations, respondent should be eligible to submit himself for another test before the expiration of the prescribed period. Thereupon this appeal was brought :—

Held : the magistrate's decision was wrong, as it was at variance with his finding of fact that the test was conducted by appellant in accordance with the regulations. The complaint should, therefore, be dismissed, and the magistrate's order quashed.—*GERAGHTY v. MORRIS*, [1939] 2 All E. R. 269 ; 160 L. T. 397 ; 103 J. P. 175 ; 55 T. L. R. 599 ; 83 Sol. Jo. 359 ; 37 L. G. R. 297 ; Digest Supp.—D. C. [1498]

SHELTERS

See AIR-RAID PRECAUTIONS.

SHOPS

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE	CASES :—	PAGE
Defence (General) Regulations, 1939, Regulation 60A —	750	London County Council v. Lees ; London County Council v. Iafate, [1939] 1 All E. R. 191, D. C. —	769
Shops Regulations, 1939 —	751		

ORDERS, CIRCULARS AND MEMORANDA DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1939, No. 927, as amended

* * * * *

[60A. Amendments of enactments relating to the closing of shops.—(1) Subsection (1) of section one of the Shops (Hours of Closing) Act, 1928 (which provides that every shop shall, save as otherwise provided by that Act, be closed for the serving of customers not later than the hours therein mentioned) shall except as respects the trade or business of selling tobacco and smokers' requisites and the trade or business of selling newspapers, have effect as if for the references therein to nine and eight o'clock there were respectively substituted references to half-past seven o'clock and six o'clock.

(2) The following subsection shall be inserted after subsection (2) of section one of the Shops (Hours of Closing) Act, 1928 :—

“(2A) A local authority may, except as respects the trade or business of selling tobacco and smokers' requisites and the trade or business of selling newspapers, by order substitute for the general closing hours fixed by subsection (1) of this section, later hours, not being later than eight o'clock in the evening on the late day or seven o'clock in the evening on any other day, and any such order—

(a) may be made so as to apply to the whole or to any part of the area of the local authority ;

- (b) may be made so as to apply to all trades or businesses or to any specified trades or businesses ;
- (c) may fix different hours for different days of the week and for different trades or businesses ; and
- (d) may contain such other incidental and supplementary provisions as appear to the local authority to be necessary or expedient for the purposes of the order ”.

(3) In the case of a shop as to which an order under section five or six of the Shops (Hours of Closing) Act, 1928, is in force at the date of the coming into operation of this Regulation, this Regulation shall not, so long as the order remains in force, effect the hours at which the shop is required by virtue of that Act to be closed.

(4) This Regulation shall come into operation on the thirtieth day of October, nineteen hundred and thirty-nine :

Provided that the power exercisable by virtue of paragraph (2) of this Regulation may be exercised at any time before that date so, however, that any order made under that power shall not come into operation until that date.] [1499]

This regulation was added by S. R. & O., 1939, No. 1464.

For section 1 (1) of the Shops (Hours of Closing) Act, 1928, see 8 Statutes 647.

Sections 5 and 6 of the Shops (Hours of Closing) Act, 1928 (*ibid.*, 649), deal with the power of a local authority to grant exemption in respect of exhibitions or shows and to make orders varying the general hours in holiday resorts and sea fishing centres.

* * * * *

SHOPS REGULATIONS, 1939

S. R. & O., 1939, No. 1841

December 19, 1939

In pursuance of the powers conferred on me by the Shops Acts, 1912 to 1938, I hereby make the following Regulations :—

Notice as to averaging of hours of young persons under the age of 16 years at Christmas (section 1A of the Shops Act, 1934)

1.—(1) The notice to be exhibited under section 1A of the Shops Act, 1934, by the occupier of a shop in order to secure that the provisions of that section shall be applicable to the shop shall be in the form marked Z in the Schedule to these Regulations.

(2) The notice shall be exhibited not later than noon on the Saturday preceding the date on which the period specified in the notice is to commence, and shall continue to be exhibited until the end of that period.

Notice as to averaging of hours of young persons in the catering trade (section 5 (1) of the Shops Act, 1934)

2.—(1) The notice to be exhibited under subsection (1) of section 5 of the Shops Act, 1934, by the occupier of a shop in which there is carried on the business of serving meals, intoxicating liquors or refreshments to customers for consumption on the premises, in order to secure that the provisions of that subsection shall be applicable to the shop, shall be in the form marked A in the Schedule to these Regulations.

(2) The notice shall be exhibited not later than noon on the Saturday preceding the date on which the period specified in the notice is to commence, and shall continue to be exhibited until the end of that period.

Notice as to overtime of young persons in the catering trade or in connection with the sale of accessories for aircraft, motor vehicles or cycles (sections 5 (2) and 6 (2) of the Shops Act, 1934).

3.—(1) The notice to be given to the local authority under subsection (2) of section 5 of the Shops Act, 1934, by the occupier of a shop in which there is carried on the business of serving meals, intoxicating liquors or refreshments to customers for consumption on the premises shall be in the form marked B (1) in the Schedule to these Regulations, and the notice withdrawing any such notice shall be in the form marked B (2) in the said Schedule.

(2) The notice to be given to the local authority under subsection (2) of section 6 of the said Act by the occupier of a shop in which there is carried on the business of serving customers with supplies or accessories for aircraft, motor vehicles or cycles sold for immediate use shall be in the form marked C (1) in the said Schedule, and the notice withdrawing any such notice shall be in the form marked C (2) in the said Schedule.

(3) Any notice given in the forms B (1), B (2), C (1) or C (2) aforesaid shall be forwarded to the local authority not later than seven days before the commencement of any year, and shall take effect on the first day of that year; and a copy of the notice shall be exhibited in the shop for a period of at least seven days immediately preceding that date.

Notice as to averaging of hours of young persons in connection with the sale of accessories for aircraft, motor vehicles or cycles (section 6 (1) of the Shops Act, 1934).

4.—(1) The notice to be given to the local authority under subsection (1) of section 6 of the Shops Act, 1934, by the occupier of a shop in which there is carried on the business of serving customers with supplies or accessories for aircraft, motor vehicles or cycles sold for immediate use, electing that the provisions of that subsection shall be applicable to the shop, shall be in the form marked D (1) in the Schedule to these Regulations, with such modifications in regard to the scheme of hours as may be appropriate.

(2) Where an occupier who has given a notice in the form D (1) aforesaid desires to vary the hours specified in the said notice, he shall give to the local authority a fresh notice in the form D (1) aforesaid specifying the new hours and withdrawing the previous notice.

(3) Where an occupier who has given a notice in the form D (1) aforesaid desires that the provisions of subsection (1) of section 6 of the said Act shall no longer be applicable to the shop, he shall give notice of withdrawal to the local authority in the form marked D (2) in the said Schedule.

(4) Any notice given in the forms D (1) or D (2) aforesaid shall be forwarded to the local authority not later than seven days before the date on which the notice is to take effect.

(5) A copy of any such notice as aforesaid shall be exhibited in the shop for a period of not less than seven days immediately preceding the date on which the notice takes effect and, in the case of a notice given in the form D (1) aforesaid, shall continue to be exhibited while the notice is in force.

(6) A notice given in the form D (1) aforesaid shall not be withdrawn (whether for the purpose of varying the scheme of hours or otherwise) by a subsequent notice until a period of at least six months has elapsed from the date on which the notice took effect.

*Records of hours of employment of young persons (section 7 (1) of the Shops Act, 1934)**

5.—(1) The record to be kept by the occupier of a shop of hours worked by, and intervals allowed for rest and meals to, every young person employed about the business of the shop shall be in the form marked E in the Schedule to these Regulations.

(2) Where an occupier elects to exhibit in the shop or any department thereof a notice specifying the daily hours to be worked by, and intervals for rest and meals to be allowed to, young persons employed about the business of the shop or department, the notice shall be in the form marked F in the said Schedule. The notice shall be exhibited not later than noon on the Saturday preceding the first week in which it is to take effect, and shall continue to be exhibited while it is in force.

(3) Where an occupier has exhibited the notice referred to in the last foregoing paragraph he shall keep a record in the form marked G in the said Schedule in respect of any week in which any young person is employed outside the daily hours or during the intervals specified in the notice.

(4) In any record the entries relating to any day shall be made on the day to which they relate or, if that is not reasonably practicable, on the following day, and the entries relating to overtime shall be made not later than two days from the end of the week to which the record relates.

(5) The records relating to any year shall be preserved in the shop for a period of not less than six months from the end of that year

*Notice setting forth certain provisions of the Shops Act, 1934
(section 7 (2) of the Shops Act, 1934)*

6. The notice required to be exhibited in a shop by the occupier setting forth the number of hours during which young persons may, in accordance with the provisions of the Shops Act, 1934 (as amended by Part II of the Young Persons (Employment) Act, 1938), be employed about the business of a shop, and such other particulars as may be prescribed, shall in the case of retail shops and warehouses occupied by retail traders be in the form marked H in the Schedule to these Regulations, and in the case of wholesale shops and warehouses occupied by wholesale dealers or merchants be in the form marked J in the said Schedule, and shall be kept constantly exhibited.

Notice as to seats for female shop assistants (section 12 of the Shops Act, 1934)

7. The notice required to be given by the occupier of a shop informing female shop assistants that they are intended to make use of the seats provided for them whenever the use there of does not interfere

* In accordance with section 4 of the Act the provisions of section 7 as to records apply to the employment of young persons in connexion with any retail trade or business carried on in any place not being a shop; and for this purpose references to employment about the business of a shop are deemed to include references to the above-mentioned employment, references to a shop are deemed to include references to the place in or from which such retail trade or business is carried on, and references to the occupier of a shop are deemed to include references to the person by whom the retail trade or business is carried on.

with their work shall be in the form marked K in the Schedule to these Regulations and shall be kept constantly exhibited :

Provided that an occupier may, in lieu of exhibited such a notice, supply a copy of the notice to every person whom it affects.

Exhibition of Notices

8. Any notice or copy of a notice required to be exhibited under these Regulations shall be kept exhibited in such a manner that it may be readily seen and read by any person whom it affects and shall be renewed whenever it becomes defaced or otherwise ceases to be clearly legible.

Citation, Commencement and Revocation

9. These Regulations may be cited as the Shops Regulations, 1939, and shall come into force on the 31st December, 1939, as from which date the Shops Regulations, 1934, shall be revoked, except that paragraph (5) of Regulation 4 of those Regulations (which requires records kept in pursuance of that Regulation to be preserved for a period of not less than six months from the end of the year to which they relate) shall remain in force until the 30th June, 1940 :

Provided that any notice exhibited or given before the 31st December, 1939, under Regulation 1, 2, 3 or 6 of those Regulations shall after that date be deemed to have been exhibited or given under Regulation 2, 3, 4 or 7, as the case may be, of these Regulations.

SCHEDULE

Z.

SHOPS ACT, 1934

(AS AMENDED BY PART II OF THE YOUNG PERSONS (EMPLOYMENT) ACT, 1938)

EMPLOYMENT OF YOUNG PERSONS UNDER THE AGE OF 16 YEARS AVERAGING OF HOURS AT CHRISTMAS

Notice of the application of the provisions of section 1A to a Shop

Notice is hereby given that during the period of two consecutive weeks commencing Sunday,* December, 19 the provisions of section 1A of the Shops Act, 1934, will apply to this shop.

(Signed)

(Occupier or Manager).

Address of shop

Date

Notes.

1. The provisions of section 1A are only applicable in the week within which Christmas Day falls and *either* the week before *or* the week after that week.

2. This notice must be exhibited not later than noon on the Saturday preceding the date on which the period is to begin, and must continue to be exhibited during that period, in such a manner that it may be readily seen and read by any person whom it affects.

3. The effect of exhibiting this notice is that during the period of two consecutive weeks specified in the notice the hours of young persons under the age of 16 years employed about the business of the shop may be averaged over the period, subject to the conditions (a) that the number of hours worked in either week must not exceed 48 and (b) that the total number of hours worked during the fortnight must not exceed 88.

4. A week means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

* Insert date of the Sunday before Christmas or of the next preceding Sunday, (See Note 1.)

A.

SHOPS ACT, 1934—EMPLOYMENT OF YOUNG PERSONS

CATERING TRADE (AVERAGING OF HOURS)

Notice of the application of the provisions of section 5 (1) to a Shop

Notice is hereby given that during the period of two consecutive weeks commencing* the provisions of sub-section (1) of section 5 of the Shops Act, 1934, will apply to this shop.

A notice under the above sub-section has been exhibited in respect of† previous fortnightly periods beginning in the current calendar year.

(Signed)

(Occupier or Manager).

Address of shop

Date

Notes.

1. This notice must be exhibited not later than noon on the Saturday preceding the date on which the period is to begin, and must continue to be exhibited during that period, in such a manner that it may be readily seen and read by any person whom it affects.

2. The effect of exhibiting this notice is that during the period of two consecutive weeks specified in the notice the hours of young persons *between the ages of 16 and 18*, whose employment is wholly or mainly in connection with the business of serving meals, intoxicating liquor or refreshments for consumption on the premises, may be averaged over the period, subject to the conditions (a) that the hours worked in either week must not exceed 60; (b) that the total hours worked during the fortnight must not exceed 96; and (c) that no overtime may be worked in addition to the fortnightly total.

3. A week means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

4. Averaging may not take place during more than twelve fortnightly periods beginning in any calendar year.

* Insert date. (See Note 3.) † Insert number of previous periods. (See Note 4.)

B (1)

SHOPS ACT, 1934—EMPLOYMENT OF YOUNG PERSONS

CATERING TRADE (OVERTIME)

Notice of Election that the provisions of section 5 (2) shall not be applicable to a Shop

To the Council of the { County }
 { Borough } of
 { District }

I/WE

occupier(s) of a shop situated at
hereby elect that on and from*

the provisions
of subsection (2) of section 5 of the Shops Act, 1934, shall not be applicable
to the said shop.

(Signed)

(Occupier(s) of shop).

Date

Notes.

1. Where this notice has been given, the following conditions relating to the overtime of young persons between the ages of 16 and 18 will apply, viz.: (i) overtime employment of such young persons may not take place in more than six weeks in any year, but (ii) such young persons may be employed overtime up to a maximum

of twelve working hours a week, provided that the limit of overtime of fifty working hours permissible for any individual young person in any year is not exceeded.

2. This notice must be forwarded to the local authority not later than seven days before the commencement of any year, and will take effect on the first day of that year. The notice cannot be given for part of a year.

A year for the purpose of the Act commences at midnight on the last Saturday night in the month of December.

3. A copy of this notice must be exhibited in the shop for at least seven days preceding the date on which it takes effect, in such a manner that it may be readily seen and read by any person whom it affects.

* Insert date.

B (2).

SHOPS ACT, 1934—EMPLOYMENT OF YOUNG PERSONS

CATERING TRADE (OVERTIME)

Withdrawal of Notice of Election that the provisions of section 5 (2) shall not be applicable to a Shop

To the Council of the { County }
 { Borough } of
 { District }

I/WE

occupier(s) of a shop situated at
hereby give notice that I/we withdraw as from*

the notice given on the*

that the provisions of

subsection (2) of section 5 of the Shops Act, 1934, shall not be applicable to the said shop.

(Signed)

(Occupier(s) of shop).

Date

Notes.

1. The effect of this notice of withdrawal is that the overtime employment of young persons between the ages of 16 and 18 wholly or mainly employed in connection with the business of serving meals, intoxicating liquors or refreshments for consumption on the premises, will be regulated by the special provisions of section 5 (2), and that any such young person may be employed overtime in any week of the year (except when a notice under section 5 (1) is in force) subject to the following conditions, viz.: he must not be employed overtime for more than eight working hours in any period of two consecutive weeks, or for more than fifty working hours in any year.

2. This notice must be forwarded to the local authority not later than seven days before the commencement of any year and will take effect on the first day of that year.

A year for the purpose of the Act commences at midnight on the last Saturday night in the month of December.

3. A copy of this notice must be exhibited in the shop for at least seven days immediately preceding the date on which it takes effect, in such a manner that it may be readily seen and read by any person whom it affects.

* Insert date.

C (1).

SHOPS ACT, 1934—EMPLOYMENT OF YOUNG PERSONS

SALE OF SUPPLIES OR ACCESSORIES FOR AIRCRAFT, MOTOR VEHICLES AND CYCLES (OVERTIME)

Notice of Election that the provisions of section 6 (2) shall not be applicable to a Shop

To the Council of the { County }
 { Borough } of
 { District }

I/WE
 occupier(s) of a shop situated at
 hereby elect that on and from*
 the provisions of subsection (2) of section 6 of the Shops Act, 1934, shall
 not be applicable to the said shop.

(Signed)

(Occupier(s) of shop).

Date

Notes.

1. Where this notice has been given, the following conditions relating to the overtime of young persons between the ages of 16 and 18 will apply, viz.: (i) overtime employment of such young persons may not take place in more than six weeks in any year, but (ii) such young persons may be employed overtime up to a maximum of twelve working hours a week, provided that the limit of overtime of fifty working hours permissible for any individual young person in any year is not exceeded.

2. This notice must be forwarded to the local authority not later than seven days before the commencement of any year, and will take effect on the first day of that year. This notice cannot be given for part of a year.

A year for the purpose of the Act commences at midnight on the last Saturday night in the month of December.

3. A copy of this notice must be exhibited in the shop for at least seven days immediately preceding the date on which it takes effect, in such a manner that it may be readily seen and read by any person whom it affects.

* Insert date.

C (2).

SHOPS ACT, 1934—EMPLOYMENT OF YOUNG PERSONS

SALE OF SUPPLIES OR ACCESSORIES FOR AIRCRAFT, MOTOR VEHICLES AND CYCLES (OVERTIME)

Withdrawal of Notice of Election that the provisions of section 6 (2) shall not be applicable to a Shop

To the Council of the { County
 Borough } of
 District }

I/WE
 occupier(s) of a shop situated at
 hereby give notice that I/we withdraw as from*
 the notice given on the* that the
 provisions of subsection (2) of section 6 of the Shops Act, 1934, shall not
 be applicable to the said shop.

(Signed)

(Occupier(s) of shop).

Date

Notes.

1. The effect of this notice of withdrawal is that the overtime employment of young persons between the ages of 16 and 18 employed in connection with the business of serving customers with supplies or accessories for aircraft, motor vehicles or cycles sold for immediate use is regulated by the special provisions of section 6(2), and that any such young person may be employed overtime in any week of the year subject to the following conditions, viz., he must not be employed overtime for more than twelve working hours in any period of three consecutive weeks, or in any year for more than fifty working hours.

In the case of a shop in which the business of serving customers with the supplies and accessories as above is not the sole or principal retail trade or business carried on in the shop, the special provisions of section 6 (2) will apply only to young persons wholly or mainly employed in connection with that business.

2. This notice must be forwarded to the local authority not later than seven

days before the commencement of any year, and will take effect on the first day of that year.

A year for the purpose of the Act commences at midnight on the last Saturday night in the month of December.

8. A copy of this notice must be exhibited in the shop for a period of at least seven days immediately preceding the date on which it takes effect, in such a manner that it may be readily seen and read by any person whom it affects.

* Insert date.

D (I).

SHOPS ACT, 1934—EMPLOYMENT OF YOUNG PERSONS

SALE OF SUPPLIES OR ACCESSORIES FOR AIRCRAFT, MOTOR VEHICLES AND CYCLES (AVERAGING OF HOURS)

Notice of application of the provisions of section 6 (1) to a Shop

To the Council of the { County
Borough } of
District }

I/WE

occupier(s) of a shop situated at

hereby elect that on and from*

provisions of subsection (1) of section 6 of the Shops Act, 1934, shall be applicable to the said shop, and that the normal working hours of young persons between the ages of 16 and 18

† employed in connexion with the business carried on in the said shop of serving customers with supplies or accessories for aircraft, motor vehicles or cycles sold for immediate use shall be in accordance with the scheme set out below :—

Scheme of Hours

Young Persons Affected. (See Note 4.)	Number of Hours to be Worked.		
	First week.	Second week.	Third week.

(Where the space provided is not sufficient the scheme may be set out on a separate sheet attached to this notice.)

‡ The notice given under the said subsection (1) of section 6 on * is hereby withdrawn.

(Signed)

(Occupier(s) of shop).

Date

Notes.

1. This notice must be forwarded to the local authority not later than seven days before the date on which it is to take effect.

2. The hours to be specified in the notice are the total number of hours to be worked in each week, exclusive of intervals for rest and meals and exclusive of overtime.

The hours so specified must not exceed 54 in respect of any week ; and the hours in any consecutive period of three weeks must not exceed 144.

3. A week means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

4. When the same hours are to apply to all the young persons, only the word "A" need be inserted in the column headed "Young Persons Affected." Where different sets of hours for different young persons or groups of young persons are specified in the notice, each such set should be distinguished by a letter (e.g. Set A First Week 45 hours, Second Week 45 hours, Third Week 54 hours. Set B First Week 54 hours, Second Week 45 hours, Third Week 45 hours).

5. Where the business of serving customers with supplies or accessories for aircraft, motor vehicles or cycles sold for immediate use is not the sole or principal retail trade or business carried on in the shop, the provisions of section 6 (1) apply only to young persons wholly or mainly employed in connection with the business of serving customers with such supplies and accessories. In such a case the words "wholly or mainly" should be inserted in the notice before the word "employed" in the first paragraph of the notice.

6. The last paragraph of the notice is for use only where it is desired to vary the hours specified in a previous notice.

7. This notice cannot be withdrawn (whether for the purpose of varying the scheme of hours or otherwise) until a period of at least six months has elapsed from the date on which the notice took effect.

8. A copy of this notice must be exhibited in the shop for a period of at least seven days immediately preceding the date on which the notice takes effect, and must continue to be exhibited while the notice is in force, in such a manner that it may be readily seen and read by any person whom it affects.

* Insert date. † See Note 5. ‡ Strike out if inapplicable (See Note 6).

D (2).

SHOPS ACT, 1934—EMPLOYMENT OF YOUNG PERSONS

SALE OF SUPPLIES OR ACCESSORIES FOR AIRCRAFT, MOTOR VEHICLES AND CYCLES (AVERAGING OF HOURS)

Withdrawal of Notice of application of the provisions of section 6 (1) to a Shop

To the Council of the { County }
 { Borough } of
 { District }

I/WE

occupier(s) of a shop situated at
hereby give notice that I/we withdraw as from* the notice
given on the* electing that the provisions of sub-
section (1) of section 6 of the Shops Act, 1934, shall be applicable to the
said shop.

(Signed)

(Occupier(s) of shop).

Date

Notes.

1. The effect of this notice of withdrawal is that as from the date on which the notice takes effect the normal maximum working hours of young persons between the ages of 16 and 18 will in each week be 48 working hours.

2. This notice must be forwarded to the local authority not later than seven days before the date on which it is to take effect.

3. A copy of this notice must be exhibited in the shop for a period of at least seven days immediately preceding the date on which it takes effect, in such a manner that it may be readily seen and read by any person whom it affects.

* Insert date.

E.

SHOPS ACT, 1934
(AS AMENDED BY PART II OF THE YOUNG PERSONS (EMPLOYMENT) ACT, 1938)
RECORD OF HOURS OF EMPLOYMENT OF YOUNG PERSONS
Address of Shop (see Note 9)

Name of Occupier

Notice in force
under
section.....
(See Note 7.)

Description of Department (if applicable)

Names of Young Persons.	Age.	Record for week ending Saturday, 19....					OVERTIME	
		.....day.				Total hours worked during week.	Worked during week.	Previously worked during year.
		Employment began.	Intervals for rest and meals.	Employment ended.	Hours worked.			

The four preceding columns
to be repeated for each
day of the week on which
young persons are em-
ployed.

Signed (Occupier or Manager)
Date

Notes.

1. The entries relating to each day must be made on that day or, if that is not reasonably practicable, on the day following.

2. The entries relating to overtime must be made within two days from the end of the week.

3. The entries under the heading "Intervals for rest and meals" may be either (a) the actual times at which the intervals began and ended (e.g. 1 p.m.-2 p.m. and 5 p.m.-5.30 p.m.) or (b) the duration of the intervals (e.g. Dinner 1 hour, Tea $\frac{1}{2}$ hour).

4. "Hours worked" means the time during which the young persons are at the disposal of the employer exclusive of the intervals allowed for rest and meals.

5. "Total hours worked" means the total hours worked during the week exclusive of intervals for rest and meals but inclusive of overtime.

6. The maximum working hours for young persons under the age of 16 are 44, except when an averaging scheme is in force under section 1A for the Christmas fortnight. Overtime may not be worked by persons under the age of 16.

The normal maximum working hours for young persons between the ages of 16 and 18 are 48, except when an averaging scheme is in force under section 5 (1) in a catering business, or under section 6 (1) in connection with the sale of supplies or accessories for aircraft, motor vehicles and cycles. Hours worked during the week in excess of the normal maximum working hours must be recorded as overtime.

7. Where a notice is in force under section 1A, section 5 (1) or section 6 (1), an entry should be made in the space provided for this purpose.

8. Where a notice in form D (1) under section 6 (1) is in force and specifies more than one set of hours, the particular set of hours applicable to each young person should be indicated in this record by placing the appropriate distinguishing letter against his name.

9. Where the record relates to the employment of young persons in connection with retail trade carried on elsewhere than in a shop, the address of the place in or from which the retail trade is carried on should be given.

F.**SHOPS ACT, 1934**

(AS AMENDED BY PART II OF THE YOUNG PERSONS (EMPLOYMENT) ACT, 1938).

DAILY HOURS TO BE WORKED BY YOUNG PERSONS AS FROM 19

Name of Occupier

Address of Shop

(See Note 7).

Description of Department

(if applicable).

Names of Young Persons. (See Note 5.)	Age.	..... day.			
		Employment to begin.	Intervals for rest and meals.	Employment to end.	
					The three preceding columns to be repeated for each day of the week on which young persons are to be employed.

Signed (Occupier or Manager)

Date

Notes.

1. This notice must be exhibited not later than noon on the Saturday preceding the first week in which it is to take effect, and must continue to be exhibited while it is in force, in such a manner that it may be readily seen and read by any person whom it affects.

2. "Hours to be worked" means the time during which the persons employed will be at the disposal of the employer, exclusive of any intervals for rest and meals.

3. The hours to be specified in this notice are the hours to be worked, exclusive of overtime.

4. The entries under the heading "Intervals for rest and meals" may be either (a) the actual times at which the intervals are to begin and end (e.g. 1 p.m.-2 p.m.

and 5 p.m.-5.30 p.m.) or (b) the duration of the intervals (e.g. Dinner 1 hour, Tea $\frac{1}{2}$ hour).

5. When the same hours are to apply to all young persons under the age of 16, or to all young persons between the ages of 16 and 18, the word "All" may be inserted in the column headed "Names of Young Persons" and the words "under 16" or "16 to 18," as the case may be, in the column headed "Age".

6. In any week in which a young person is employed outside the daily hours or during the intervals specified in the notice, an entry must be made in the record in form G.

7. Where the notice relates to young persons employed in connection with retail trade carried on elsewhere than in a shop the address of the place in or from which the retail trade is carried on should be given.

G.

SHOPS ACT, 1934

(AS AMENDED BY PART II OF THE YOUNG PERSONS (EMPLOYMENT) ACT, 1938).
RECORD OF HOURS OF EMPLOYMENT OF YOUNG PERSONS.

(To be used only where Form F is exhibited.)

Name of Occupier

Address of Shop

(See Note 5).

Description of Department
(if applicable).

Week ending Saturday					19....	
Names of Young Persons.	Age.	.....day.			OVERTIME	
		Time worked outside the hours or during the intervals specified in Form F.	Time not worked during specified hours.		Worked during week.	Previously worked during the year.
				The two preceding columns to be repeated for each day in respect of which an entry requires to be made.		

Signed (Occupier or Manager)

Date

Notes.

1. The necessary entries must be made on this form in any week in which any young person is employed on any day outside the daily hours or during the intervals specified in Form F.

2. Any time worked outside the daily hours or during the intervals specified in Form F must be entered in the first of the two daily columns. Such time must also be recorded at the end of the week as overtime in the column provided for that purpose, unless it was offset by an equivalent amount of time not worked within the specified hours during the same week, and the time not worked was duly recorded in the second of the two daily columns.

3. Entries relating to any day must be made on that day or, if that is not reasonably practicable, on the day following.

4. Overtime must be entered within two days from the end of the week.

5. Where the record relates to the employment of young persons in connection with retail trade carried on elsewhere than in a shop the address of the place in or from which the retail trade is carried on should be given.

H.

This notice must be exhibited in every retail shop or warehouse occupied by a retail trader, about the business of which young persons are employed.

ABSTRACT OF PROVISIONS OF THE SHOPS ACT, 1934 (AS AMENDED BY PART II OF THE YOUNG PERSONS (EMPLOYMENT) ACT, 1938), RELATING TO THE EMPLOYMENT OF YOUNG PERSONS IN RETAIL SHOPS AND WAREHOUSES (SHOPS ACT, 1934, SECTION 7 (2)).

1. *Young persons to whom the Act applies.*

The Act applies to young persons under the age of 18 (other than children of school age whose employment is regulated by the Children and Young Persons Act, 1933) employed about the business of a shop, whether or not they receive any reward for their labour.

In the application of the Act to retail establishments,

- (a) "Shop" means any premises in which any retail trade is carried on, and includes any warehouse occupied for the purpose of his trade by any person carrying on any retail trade or business;
- (b) "Employment about the business of a shop" includes such employment both inside and outside the shop, and covers also employment by the occupier of a shop upon any work whether within the shop or outside it which is ancillary to the business carried on at the shop.

2. *Maximum working hours for young persons under the age of 16.*

No young person under the age of 16 may be employed about the business of a shop for more than 44 working hours in any week, except in one week during the Christmas season subject to the conditions described in paragraph 3.

3. *Averaging of hours of young persons under the age of 16 during the Christmas season.*

When a notice in the prescribed form has been exhibited in a shop, the weekly hours of young persons under the age of 16 may be averaged over a fortnight comprising the week in which Christmas Day falls and either the week before or the week after, subject to the condition (i) that their working hours must not exceed 48 in either week, and (ii) that their total working hours for the fortnight must not exceed 88.

4. *Normal maximum working hours for young persons between the ages of 16 and 18.*

Subject to the exceptions described in paragraphs 5, 8 and 9, no young person between the ages of 16 and 18 may be employed about the business of a shop for more than 48 working hours in any week. These are the "normal maximum working hours" for these young persons.

5. *Overtime.*

On occasions of seasonal or exceptional pressure of work at any shop, young persons between the ages of 16 and 18 may be employed about the business of the shop overtime, i.e., in excess of the normal maximum working hours, subject to the following conditions:—

- (a) Overtime may not be worked in any shop in more than six weeks in a year;
- (b) No individual young person may be employed overtime in any year for more than 50 working hours;
- (c) No individual young person may be employed overtime in any week for more than 12 working hours.

Overtime may not be worked by any young person under the age of 16.

6. *Mixed employment.*

In determining the number of working hours in any week for which a young person has been employed about the business of any shop, any time

worked in that week about the business of any other retail or wholesale shop or warehouse, or in a factory or in any of the employments which are regulated by Part I of the Young Persons (Employment) Act, 1938, must also be reckoned.

Where a young person has previously been employed in a factory on any day, he must not be employed about the business of a shop on the same day for a longer period than will, together with the hours worked in the factory, complete the daily number of hours permitted by the Factories Act, 1937.

But except as above the Act does not apply to the employment in a factory of young persons whose hours of employment are regulated by the Factories Act, 1937.

7. *Restrictions on night employment.*

Every young person employed about the business of a shop must be allowed an interval of at least eleven consecutive hours in every period of twenty-four hours between midday and midday, and this interval must include the hours between 10 p.m. and 6 a.m. (or 5 a.m. in the case of male young persons between the ages of 16 and 18 employed in connection with the collection or delivery of milk or bread or newspapers).

8. *Special provisions as to the catering trade.*

(1) The two following provisions apply only to young persons between the ages of 16 and 18 wholly or mainly employed in connection with the business of serving meals, intoxicating liquor or refreshments to customers for consumption on the premises.

(a) *Averaging of hours over a fortnight.*

When a notice in the prescribed form has been exhibited in a shop, the weekly hours of the young persons may be averaged over a fortnight, subject to the conditions (i) that their working hours must not exceed 60 in either week, (ii) that their total working hours for the fortnight must not exceed 96 hours, (iii) that no overtime may be worked during the fortnight, and (iv) that averaging may not take place in more than twelve fortnights beginning in any calendar year.

(b) *Special provision for overtime.*

The young persons may be employed overtime in any week in the year when an averaging arrangement is not in force, but the overtime in any period of two successive weeks must not exceed 8 working hours. The limitation of the annual amount of overtime to be worked by the individual young person (see paragraph 5 (b)) remains unaffected.

An occupier of a shop may however by giving the prescribed notice elect that, in lieu of this provision, the normal overtime provisions set out in paragraph 5 above shall apply to the young persons.

(2) *Night employment in connection with the service of meals.*

In the case of male young persons between the ages of 16 and 18 employed wholly or mainly in connection with the business of serving meals to customers for consumption on the premises, the restrictions on night employment set out in paragraph 7 are modified so as to permit employment for any period between 10 p.m. and midnight during which they are wholly employed in connection with the business of serving meals.

9. *Special provisions as to the sale of supplies or accessories for aircraft, motor vehicles or cycles.*

In the case of a shop where the business of selling such supplies or accessories for immediate use is the sole or principal retail business carried

on in the shop, the following special provisions apply to young persons between the ages of 16 and 18 employed in connection with that business.

When it is not the principal retail business carried on in the shop, the special provisions apply to young persons between 16 and 18 who are wholly or mainly employed in connection with that business.

(a) *Averaging of hours.*

Where the prescribed notice has been given to the local authority, the hours of the young persons may be averaged, and the weekly hours specified in the scheme of hours set out in the notice (a copy of which must be exhibited in the shop) become the normal maximum working hours of the young persons, subject to the following conditions :—

- (i) The hours worked in any week, including any overtime worked in excess of the hours specified, must not exceed 54 working hours.
- (ii) The total working hours (excluding overtime) in any period of three consecutive weeks must not exceed 144.
- (iii) No young person may be employed overtime in any period of three consecutive weeks for more than 12 working hours.

(b) *Special provision for overtime.*

The young persons may be employed overtime in any week in the year, whether or not an averaging system is in force, but no young person may be employed overtime in any period of three consecutive weeks for more than 12 working hours.

The limitation of the annual amount of overtime to be worked by the individual young person (see paragraph 5 above) remains unaffected by either of the special provisions.

An occupier of a shop may by giving the prescribed notice elect that in lieu of the special provision relating to overtime the normal overtime provisions set out in paragraph 5 above shall apply to the young persons (except where an averaging scheme is in force).

10. *Weekly half-holidays.*

Every young person wholly or mainly employed about the business of a shop for more than 25 hours in any week must be allowed in that week the weekly half-holiday provided for shop assistants by section 1 of the shops Act, 1912, i.e. on at least one week day in each week the young person must not be employed about the business of the shop after 1.30 p.m. (1 p.m. if the Shops Acts are applied to employment at the premises by the employer's election under Part I of the Young Persons (Employment) Act, 1938).

11. *Meal Intervals.*

Every young person wholly or mainly employed about the business of a shop must be allowed the intervals for meals prescribed for shop assistants by the First Schedule to the Shops Act, 1912, except that, in the case of young persons, the period which may be worked without an interval is reduced. The intervals are as follows :—

- (1) No young person may be employed for more than 5 hours (or 5½ hours on the day of his weekly half-holiday) without an interval of at least 20 minutes being allowed during the course thereof.
- (2) Where a young person is employed during the hours from 11.30 a.m. to 2.30 p.m., an interval of not less than three-quarters of an hour (or one hour when the meal is not taken in the shop) must be allowed between those hours for dinner.

In the case of young persons employed in the sale of refreshments, or the retail sale of intoxicating liquors, or in any shop on a market day, or the day of an annual fair, the dinner interval may end not earlier than 11.30 a.m. or commence not later than 2.30 p.m.

- (3) Where a young person is employed during the hours from 4 p.m.

to 7 p.m. an interval of not less than half an hour must be allowed between those hours for tea.

NOTE.—The provisions as to meal intervals do not apply to a shop where the only persons employed are members of the occupier's family, maintained by him and dwelling in his house.

12. *Records.*

Every occupier of a shop who employs young persons about the business of his shop must

Either (a) keep a record in the prescribed form of the actual hours worked by, and the intervals for rest and meals allowed to, the young persons;

Or (b) exhibit in the shop a notice in the prescribed form specifying the daily hours to be worked by, and the intervals for rest and meals to be allowed to, the young persons. In that case he must record separately on the prescribed form any time worked outside the daily hours or during the intervals specified in the notice.

13. *Definitions.*

"Working hours" means the time during which the persons employed are at the disposal of the employer, exclusive of any intervals allowed for rest and meals.

"Week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

"Year" means the period between midnight on the last Saturday night in the month of December and midnight on the last Saturday night in the next month of December.

14. *Administration of the Act.*

The provisions of the Act relating to hours of young persons are administered by the local authorities responsible for the enforcement of the Shops Acts. Enquiries should accordingly be addressed in London outside the City to the London County Council, in the City of London to the Common Council, in Boroughs to the Town Council, in Urban or Rural Districts where the District Council is the shops authority, to that Council, and elsewhere to the County Council.

J.

This notice must be exhibited in every wholesale shop or warehouse occupied by any wholesale dealer or merchant, about the business of which young persons are employed.

ABSTRACT OF PROVISIONS OF THE SHOPS ACT, 1934 (AS AMENDED BY PART II OF THE YOUNG PERSONS (EMPLOYMENT) ACT, 1938) RELATING TO THE EMPLOYMENT OF YOUNG PERSONS IN WHOLESALE SHOPS AND WAREHOUSES (SHOPS ACT, 1934, SECTION 7 (2)).

1. *Young persons to whom the Act applies.*

The Act applies to young persons under the age of 18 (other than children of school age whose employment is regulated by the Children and Young Persons Act, 1933) employed about the business of a wholesale shop or warehouse, whether or not they receive any reward for their labour.

In the application of the Act to wholesale establishments,

- (i) a "wholesale shop" means any premises occupied by a wholesale dealer or merchant where goods are kept for sale wholesale to customers resorting to the premises; and a "warehouse" means any warehouse occupied for the purpose of his trade by any wholesale dealer or merchant;

- (ii) "employment about the business of a wholesale shop or warehouse" includes (a) all such employment within the premises of the wholesale shop or warehouse, (b) employment outside the premises in the collection or delivery of goods, or in attendance upon customers or in carrying messages or running errands, (c) employment in the service of the occupier upon any work within the premises which is ancillary to the business carried on at the wholesale shop or warehouse.

2. *Maximum working hours for young persons under the age of 16.*

No young persons under the age of 16 may be employed about the business of a wholesale shop or warehouse for more than 44 working hours in any week, except in one week during the Christmas season subject to the conditions described in paragraph 3.

3. *Averaging of hours of young persons under the age of 16 during the Christmas season.*

When a notice in the prescribed form has been exhibited in a wholesale shop or warehouse, the weekly hours of young persons under the age of 16 may be averaged over a fortnight comprising the week in which Christmas Day falls and either the week before or the week after, subject to the conditions (i) that their working hours must not exceed 48 in either week, and (ii) that their total working hours for the fortnight must not exceed 88.

4. *Normal maximum working hours for young persons between the ages of 16 and 18.*

Subject to the exception described in paragraph 5, no young person between the ages of 16 and 18 may be employed about the business of a wholesale shop or warehouse for more than 48 working hours in any week. These are the "normal maximum working hours" for these young persons.

5. *Overtime.*

On occasions of seasonal or exceptional pressure of work, young persons between the ages of 16 and 18 may be employed about the business of a wholesale shop or warehouse overtime, i.e. in excess of the normal maximum working hours, subject to the following conditions:—

- (a) Overtime may not be worked in any wholesale shop or warehouse in more than six weeks in a year;
- (b) No individual young person may be employed overtime in any year for more than 50 working hours;
- (c) No individual young person may be employed overtime in any week for more than 12 working hours.

Overtime may not be worked by any young person under the age of 16.

6. *Mixed employment.*

In determining the number of working hours in any week for which a young person has been employed about the business of any wholesale shop or warehouse, any time worked in that week about the business of any other retail or wholesale shop or warehouse or in a factory or in any of the employments which are regulated by Part I of the Young Persons (Employment) Act, 1938, must also be reckoned.

Where a young person has previously been employed in a factory on any day he must not be employed about the business of a wholesale shop or warehouse on the same day for a longer period than will, together with the hours worked in the factory, complete the daily number of hours permitted by the Factories Act, 1937.

But except as above the Act does not apply to the employment in a factory of young persons whose hours of employment are regulated by the Factories Act, 1937.

7. *Restrictions on night employment.*

Every young person employed about the business of a wholesale shop or warehouse must be allowed an interval of at least eleven consecutive hours in every period of twenty-four hours between midday and midday, and this interval must include the hours between 10 p.m. and 6 a.m. (or 5 a.m. in the case of male young persons between the ages of 16 and 18 employed in connection with the collection or delivery of milk or bread or newspapers).

8. *Weekly half-holidays.*

Every young person wholly or mainly employed about the business of a wholesale shop or warehouse for more than 25 hours in any week must be allowed in that week the weekly half-holiday provided for shop assistants by section 1 of the Shops Act, 1912, i.e. on at least one week day in each week the young person must not be employed about the business of the wholesale shop or warehouse after 1.30 p.m. (1 p.m. if the Shops Acts are applied to employment at the premises by the employer's election under Part I of the Young Persons (Employment) Act, 1938).

9. *Meal intervals.*

Every young person wholly or mainly employed about the business of a wholesale shop or warehouse must be allowed the intervals for meals prescribed for shop assistants by the First Schedule to the Shops Act, 1912, except that, in the case of young persons, the period which may be worked without an interval is reduced. The intervals are as follows:—

- (1) No young person may be employed for more than 5 hours (or $5\frac{1}{2}$ hours on the day of his weekly half-holiday) without an interval of at least 20 minutes being allowed during the course thereof.
- (2) Where a young person is employed during the hours from 11.30 a.m. to 2.30 p.m., an interval of not less than three-quarters of an hour (or one hour when the meal is not taken in the shop) must be allowed between those hours for dinner.
- (3) Where a young person is employed during the hours from 4 p.m. to 7 p.m. an interval of not less than half an hour must be allowed between those hours for tea.

NOTE.—The provisions as to meal intervals do not apply where the only persons employed in the wholesale shop or warehouse are members of the occupier's family, maintained by him and dwelling in his house.

10. *Records.*

Every occupier of a wholesale shop or warehouse who employs young persons about the business of his wholesale shop or warehouse must

Either (a) keep a record in the prescribed form of the actual hours worked by, and the intervals for rest and meals allowed to, the young persons ;

Or (b) exhibit in the wholesale shop or warehouse a notice in the prescribed form specifying the daily hours to be worked by, and the intervals for rest and meals to be allowed to, the young persons. In that case he must record separately on the prescribed form any time worked outside the daily hours or during the intervals specified in the notice.

11. *Definitions.*

"Working hours" means the time during which the persons employed are at the disposal of the employer, exclusive of any intervals allowed for rest and meals.

"Week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

"Year" means the period between midnight on the last Saturday night in the month of December and midnight on the last Saturday night in the next month of December.

12. Administration of the Act.

The provisions of the Act relating to hours of young persons are administered by the local authorities responsible for the enforcement of the Shops Acts. Enquiries should accordingly be addressed in London outside the City to the London County Council, in the City of London to the Common Council, in Boroughs to the Town Council, in Urban or Rural Districts where the District Council is the shops authority, to that Council, and elsewhere to the County Council.

K.

SHOPS ACTS, 1912 TO 1934.

Seats for Female Shop Assistants.

NOTICE IS HEREBY GIVEN that seats are provided in this shop for female shop assistants employed in the serving of customers, and that these assistants are intended to make use of the seats whenever the use thereof does not interfere with their work.

(Signed)

(Occupier(s) of shop).

Address of shop

Note.—A copy of this notice must either be kept constantly exhibited in such a manner that it may be readily seen and read by any person whom it affects or be supplied to every such person. [1500]

CASES

Closing of Shops—Sunday Trading—Restriction—Sale of Chocolate Eclairs, Cream Buns, Jam Tarts, Fruit Cake, Swiss Roll and Veal and Ham Pies—Whether "meal or refreshment"—Shops (Sunday Trading Restriction) Act, 1936 (c. 53), s. 1, Scheds. I, II.

L., a shopkeeper who also kept a restaurant, was charged with having at 2 p.m. on a Sunday, unlawfully sold chocolate eclairs, cream buns, jam tarts, fruit cake, swiss roll and veal-and-ham pies, contrary to the Shops (Sunday Trading Restriction) Act, 1936, s. 1, Sched. II, prohibiting the sale after 10 a.m. of articles including bread, flour confectionery, groceries and fish. The magistrate held that, although the articles sold came within Sched. II, they were also a "meal or refreshment", which, under Sched. I of the Act, can be sold all day, and he dismissed the charge. Thereupon this appeal was brought:—

Held: in view of the ambiguous wording of the Act of 1936, the court was not prepared to say, on the facts of the case, that the magistrate's decision was wrong in point of law.—LONDON COUNTY COUNCIL *v.* LEES; LONDON COUNTY COUNCIL *v.* IAFRATÉ, [1939] 1 All E. R. 191; 160 L. T. 281; 103 J. P. 89; 55 T. L. R. 369; 83 Sol. Jo. 177; 37 L. G. R. 187; Digest Supp.—D. C. [1501]

SLUM CLEARANCE

See HOUSING.

SPECIAL CONSTABLES

See POLICE.

SPECIAL SCHOOLS

See EDUCATION.

STATUTES AND STATUTORY RULES AND ORDERS

STATUTES :—

Expiring Laws Continuance Act, 1939

- - - - - 770

STATUTES

THE EXPIRING LAWS CONTINUANCE ACT, 1939

(3 & 4 Geo. 6, c. 1)

An Act to continue certain expiring laws. [1502]

[14th December, 1939.]

Whereas the Acts mentioned in the Schedule to this Act are, in so far as they are in force and are temporary in their duration, limited to expire—

- (a) in the case of all those Acts except the Special Areas (Amendment) Act, 1937, on the thirty-first day of December nineteen hundred and thirty-nine ;
- (b) in the case of the Special Areas (Amendment) Act, 1937, on the thirty-first day of March nineteen hundred and forty :

And whereas it is expedient to provide for the continuance, as in this Act mentioned, of those Acts and of the enactments amending or affecting the same : [1503]

1. Continuance of Acts in Schedule.—(1) The Acts mentioned in the Schedule to this Act shall, to the extent specified in column three of that Schedule, be continued until the thirty-first day of December nineteen hundred and forty. [1504]

(2) Any unrepealed enactments which are temporary in their duration shall, in so far as they amend or affect the enactments continued by the foregoing provisions of this Act, be continued in like manner whether they are mentioned in the Schedule to this Act or not. [1505]

2. Short title and application to Northern Ireland.—(1) This Act may be cited as the Expiring Laws Continuance Act, 1939.

(2) This Act shall apply to Northern Ireland in so far as it deals with any enactment relating to a subject with respect to which the Parliament of Northern Ireland has not power to make laws, but, save as hereinbefore provided, shall not apply to Northern Ireland. [1506]

Sect. 1.

SCHEDULE

1.	2.	3.	4.
Session and Chapter.	Short Title.	How far continued.	Amending Acts.
* * *	* * *	* * *	* * *
(6) 20 & 21 Geo. 5, c. 50.	The Public Works Faci- lities Act, 1930.	The following provisions, that is to say, section two, except the words "or statutory under- takers", wherever those words occur; in section three, the words from the begin- ning of the section to the word "undertak- ing"; section five; subsections (1) and (2) of section six; section seven and eight; and the First Schedule except paragraph 2 of Part I.	
* * *	* * *	* * *	* * *
(9) 24 & 25 Geo. 5, c. 50.	The Road Traffic Act, 1934.	Section one - - -	1 Edw. 8. & 1 Geo. 6, c. 5.
(10) 1 Edw. 8. & 1 Geo. 6, c. 31.	The Special Areas (Amendment) Act, 1937.	The whole Act - - -	—

[1507]

SUPERANNUATION

*See also, EDUCATION ; FIRE PROTECTION ; OFFICERS OF
LOCAL AUTHORITIES*

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STATUTES

THE LOCAL GOVERNMENT SUPERANNUATION
ACT, 1939

(2 & 3 Geo. 6, c. 18)

An Act to amend the provisions of the Local Government Superannuation Act, 1937, and of the Local Government Superannuation (Scotland) Act, 1937, as to the local authorities to whom service must be rendered in order to constitute service for the purposes of those Acts respectively, to amend Part II of the First Schedule to the first-mentioned Act, and to provide for the admission to the benefits of that Act of certain employees of statutory undertakers who as such employees were entitled to the benefits of the Local Government and other Officers' Superannuation Act, 1922. [1508] [28th April, 1939.]

1. "Service" to include service to any local authority whether English or Scottish.—(1) In the definition of "service" in subsection (1) of section forty of the Local Government Superannuation Act, 1937 (in this Act referred to as "the principal Act"), for the words "'service' means service rendered to any local authority", there shall be substituted the words "'service' means service rendered to any local authority within the meaning of this Act, or to any local authority within the meaning of the Local Government Superannuation (Scotland) Act, 1937". [1509]

For s. 40 of the principal Act, see 30 Statutes 415. That Act (except s. 38) did not extend to Scotland. Sect. 38 empowered the Secretary of State for Scotland and the Minister to make regulations with respect to the rights and liabilities of persons transferring from English to Scottish authorities and *vice versa*, but the definition of service was not in terms applicable to service with a Scottish authority.

(2) In the definition of "service" in subsection (1) of section thirty-four of the Local Government Superannuation (Scotland) Act, 1937, for the words "'service' means service rendered to any local authority", there shall be substituted the words "'service' means service rendered to any local authority within the meaning of this Act, or to any local authority within the meaning of the Local Government Superannuation Act, 1937". [1510]

The Local Government Superannuation (Scotland) Act, 1937, is not printed in Halsbury's Statutes. It is thought desirable, however, to print this subsection as it is complementary to sub-s. (1).

2. Amendment as to employees of certain institutions who were subject to the Act of 1922.—(1) Notwithstanding that a person is employed in, and in the service of, such an institution as is mentioned in paragraph 1 of Part II of the First Schedule to the principal Act, he shall not be excluded, by virtue of paragraph (a) of subsection (4) of section three of the principal Act, from participation in the benefits of a superannuation fund maintained under Part I of the principal Act, if he was immediately before the appointed day subject to the Act of 1922. [1511]

(2) In accordance with the preceding subsection Part II of the First Schedule to the principal Act (which specifies the persons excluded as aforesaid) shall be amended by inserting in paragraph 1 thereof, after the words "not being a person who was immediately before the appointed day subject to the Act of 1896", the words "or to the Act of 1922". [1512]

This section remedies a *casus omissus* in the Act of 1937. It is applicable to a very limited class. For Part II of the 1st Schedule to the Act of 1937, see 30 Statutes 420.

3. Admission of certain employees of statutory undertakers to benefits of the principal Act.—(1) The following provisions of this section shall have effect as respects employees of statutory undertakers (that is to say, any company or other body or person authorised by or under an Act of Parliament, or an order having the force of an Act of Parliament, to construct, work or carry on a railway, canal, inland navigation, road transport, dock, harbour, tramway, gas, electricity, water, or other public undertaking) who were immediately before the appointed day entitled to the benefits of the Act of 1922 by virtue of their having been transferred under any public general Act to the employment of those undertakers from the employment of a local authority on terms providing that they should be entitled to participate in the benefits of a superannuation fund maintained by that authority.

(2) The undertakers and the local authority from whose employment any such employees were transferred shall, forthwith after the passing of this Act, jointly make and submit to the Minister a scheme for the admission of those employees to participate in the benefits of the superannuation fund maintained by that authority under Part I of the principal Act.

(3) A scheme under this section shall make such modifications and adaptations of the principal Act in its application to the employees, to the authority and to the undertakers, to whom the scheme relates, as appear to the Minister to be requisite for securing—

(a) that as from the appointed day those employees shall enjoy rights as nearly as may be the same as those which they would have enjoyed by virtue of the Act under which they were transferred, and that they and the authority and the undertakers shall be subject to liabilities as nearly as may be the same as those to which they would have been subject by virtue of that Act, if the principal Act had not been passed ; and

(b) that due provision is made for any consequential and incidental matters. [1513]

This section again is applicable to a very limited class. By s. 6 of the principal Act (30 Statutes 391) a local authority may, on the application of a statutory undertaker, admit any employee of the undertaker to participate in the benefits of the superannuation fund maintained by the authority.

4. Short title, citation, construction and effect.—(1) This Act may be cited as the Local Government Superannuation Act, 1939.

(2) The principal Act and subsection (1) of section one of this Act and sections two and three of this Act shall be construed as one and may be cited together as the Local Government Superannuation Acts, 1937 and 1939.

(3) The Local Government Superannuation (Scotland) Act, 1937, and subsection (2) of section one of this Act shall be construed as one and may be cited together as the Local Government Superannuation (Scotland) Acts, 1937 and 1939.

(4) The principal Act and the Local Government Superannuation (Scotland) Act, 1937, shall have effect and shall be deemed always to have had effect, as if they had respectively been originally enacted as amended by this Act, and, as regards the principal Act, as if section three of this Act had been originally enacted therein. [1514]

ORDERS, CIRCULARS AND MEMORANDA
LOCAL GOVERNMENT SUPERANNUATION (ADDITIONAL CONTRIBUTORY PAYMENT) REGULATIONS, 1939

S. R. & O., 1939, No. 52

(97328)

January 21, 1939

The Minister of Health, in exercise of the powers conferred on him by proviso (ii) to paragraph (b) of subsection (2) of section 8 of the Local Government Superannuation Act, 1937, and of all other powers enabling him in that behalf, hereby makes the following Regulations.

1. These Regulations may be cited as the Local Government Superannuation (Additional Contributory Payment) Regulations, 1939.

2.—(1) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(2) In these Regulations the expression “the Act” means the Local Government Superannuation Act, 1937.

3. The sum to be paid by a contributory employee who desires to receive by way of superannuation allowance in respect of any year of non-contributing service—

- (a) in any case to which the Act as amended by a local Act applies, an annual sum, being a fraction of his average remuneration larger than one one-hundred-and-sixtieth but not exceeding one eightieth, and a lump sum, being a fraction of his average remuneration larger than one sixtieth but not exceeding one thirtieth; or
- (b) in any other case, a fraction of his average remuneration larger than one one-hundred-and-twentieth but not exceeding one sixtieth;

shall be calculated in accordance with the provisions contained in the Schedule to these Regulations.

4.—(1) Such sum may be paid—

- (a) in a lump sum forthwith upon the contributory employee notifying the employing authority in writing within any such period mentioned in paragraph (5) of this Article as is applicable to his case that he intends to secure a title to any such superannuation allowance as aforesaid; or
- (b) partly in a lump sum or not less than one tenth of such sum forthwith upon the giving of such notice as aforesaid and as to the remainder, and subject as hereinafter provided, by such instalments as within three months after the date of such notification (hereinafter referred to as “the material date”) may be agreed between the employee and the employing authority; or
- (c) wholly, subject as hereinafter provided, by such instalments as aforesaid.

(2) If such sum is made payable, partly or wholly, by instalments, the instalments shall be of equal amounts spread over a period of not more than ten years after the material date, the first instalment to be paid within four months after the material date:

Provided that the whole of the instalments shall be payable before

the date on which the employee will attain the age of compulsory retirement applicable in his case :

Provided nevertheless that—

- (a) if he has completed, or can before attaining the age of compulsory retirement complete, forty years of service ; or
- (b) if, being a female nurse, midwife or health visitor in whose case the age of compulsory retirement is sixty years, she has completed, or can before attaining the age of compulsory retirement complete, thirty years of service ;

the whole of the instalments shall be payable before the date on which the employee will complete, in the last-mentioned case thirty years, and in any other case forty years, of service.

(3) If such sum is payable, partly or wholly, by instalments, then, while any instalment remains to be paid the following provisions shall have effect—

- (a) interest shall be payable as from the material date upon the amount for the time being unpaid and shall be calculated at the rate of three per cent. per annum, with half-yearly rests ;
- (b) if the employee becomes entitled to a superannuation allowance under the Act, a deduction in respect of any amount due may be made from any payment on account of the superannuation allowance ;
- (c) if the employee dies without having become entitled to a superannuation allowance, all liability in respect of the balance of the debt shall cease ;
- (d) if the employee ceases to hold his employment without having become entitled to a superannuation allowance and is entitled to a return of contributions, then, at the expiration of twelve months, the employee shall cease to be entitled to any rights in respect of payments made by him on account of the debt, except any right to a return of the amount of such payments, and his liability in respect of the balance of the debt shall cease, unless within that period the employee has again become a contributory employee without having previously become a local Act contributor, in which event, subject as hereinafter provided, the right to receive the balance of the debt shall be deemed to be transferred to the employing authority whose employment the employee has entered and the employee shall pay to that authority an amount equal to any sum which may have been returned to him in respect of payments made by him on account of the debt.

(4) The provisions of sub-paragraph (d) of paragraph (3) of this Article shall have effect subject to the following provisions—

- (a) if after an employee has ceased to hold one employment and entered one other employment as a contributory employee, being a part-time employment, that employee, within twelve months after having ceased to hold his former employment but while retaining that part-time employment and without having ceased to hold any other employment as a contributory employee or local Act contributor which he may have held when he ceased to hold his former employment, enters the part-time employment of another local authority or of two or more other local authorities and becomes such an employee or contributor as aforesaid, the right to receive the balance

of the debt and the liability of the employee to make payments to the employing authorities shall be apportioned in accordance with the provisions of sub-paragraph (c) of this paragraph as if he had simultaneously entered all the employments he holds, and any payments already made by him under the provisions of sub-paragraph (d) of paragraph (3) of this Article shall be adjusted accordingly ;

- (b) if the employee having ceased to be in the whole-time employment of a single employing authority has become a contributory employee in their part-time employment and a contributory employee in the part-time employment of another employing authority, the right to receive only such portion of the balance of the debt shall be deemed to be transferred to that other employing authority as bears the same proportion to the balance of the debt as the annual remuneration of the part-time employment he has entered under that other employing authority bears to the aggregate amount of the annual remuneration of the part-time employments, and the employee shall pay to that other employing authority an amount equal to a similar proportion of any sum which may have been returned to him in respect of payments made by him on account of the debt, the balance thereof being payable by him to the single employing authority aforesaid :

Provided that if the employee, within twelve months after having entered and while retaining the part-time employments aforesaid, has entered the part-time employment of another local authority or of two or more other local authorities and become a contributory employee or local Act contributor, the right to receive the balance of the debt and the liability of the employee to make payments to the employing authorities shall be apportioned in accordance with the provisions of the next succeeding sub-paragraph as if he had simultaneously entered all the employments he holds, and any payments already made by him under the preceding provisions of this paragraph shall be adjusted accordingly :

- (c) if the employee having ceased to hold one employment has entered the employment of more than one local authority, the right to receive the balance of the debt shall be apportioned between the employing authorities—

(i) if none of the local authorities are local Act authorities, in the proportion which the annual remuneration of each part-time employment bears to the aggregate amount of the annual remuneration of the part-time employments ;

(ii) if any of the local authorities are local Act authorities, in the proportion which the annual remuneration payable by each of the employing authorities bears to the aggregate amount of the annual remuneration payable by those authorities and any local Act authority ;

and the liability of the employee to make payments to the employing authorities in respect of any sum which may have been returned to him in respect of payments made by him on account of the debt shall be similarly apportioned :

Provided that if within twelve months after ceasing to hold his former employment the employee, while retaining the employments he has entered and without having ceased to hold any other employment as a contributory employee or local Act contributor which he may have held when he ceased to hold his former employment, enters the employment of another local authority or of two or more other local authorities and becomes such an employee or contributor as aforesaid, the right to receive the balance of the debt and the liability of the employee to make payments to the employing authorities shall be re-apportioned in accordance with the foregoing provisions of this subparagraph as if the employee had simultaneously entered all the employments he holds, and any payments already made by him under those provisions shall be adjusted accordingly.

(5) A notification under paragraph (1) of this Article shall be given—

- (a) in the case of a person who is a contributory employee on the appointed day, within twelve months thereafter;
- (b) in the case of a person who becomes a contributory employee after the appointed day without having previously been such an employee, within three months after becoming such an employee;
- (c) in the case of a person who, having ceased to be a contributory employee, again becomes such an employee after a disqualifying break of service, within three months after again becoming such an employee.

5. Any sum or sums payable by an employee under these Regulations shall be paid to the employing authority and on receipt shall be paid by the employing authority to the appropriate administering authority.

SCHEDULE

DIRECTIONS FOR USE OF THE SUBJOINED TABLES

1. The age and remuneration of an employee mean his age on the material date and the annual remuneration on which he is paying contributions on that date, or, in the case of a person who is not required to contribute under subsection (1) of section 6 of the Act, his annual remuneration on that date:

Provided that if for the purposes of this definition account is required to be taken of any fees payable to the employee in respect of any service the amount thereof shall be taken to be the annual average of the fees payable to him in respect of that service rendered during the five years immediately preceding the material date or, if that service was of shorter duration, such shorter period.

2. The amount shown in a Table in relation to an age which corresponds with that of the employee is an amount appropriate in respect of £100 of remuneration. A total amount is to be calculated proportionately by reference to the remuneration of the employee. Such total amount is the sum payable by the employee in order to secure in respect of one year of the non-contributing service which he is entitled to reckon on the material date a superannuation allowance at the rate of one sixtieth of his average remuneration or a superannuation allowance consisting of an annual sum at the rate of one eightieth of his average remuneration and a lump sum equal to one thirtieth of his average remuneration.

3. The sum payable by an employee in order to secure in respect of

one year of the non-contributing service which he is entitled to reckon on the material date a superannuation allowance at a fraction of his average remuneration larger than one one-hundred-and-twentieth but less than one sixtieth or a superannuation allowance consisting of an annual sum at the rate of a fraction of his average remuneration larger than one one-hundred-and-sixtieth but less than one eightieth and a lump sum equal to more than one sixtieth of his average remuneration but less than one thirtieth is that proportion of the amount calculated in accordance with the last preceding paragraph which the difference between the fraction chosen and one one-hundred-and-twentieth or one one-hundred-and-sixtieth, as the case may require, bears to one one-hundred-and-twentieth or one one-hundred-and-sixtieth, as the case may be.

4. The sum payable by an employee in order to secure any such allowance as is mentioned in either of the last two preceding paragraphs in respect of more than one year of the non-contributing service which he is entitled to reckon on the material date is the amount calculated in accordance with paragraph 2 or 3 of these Directions, as the case may be, multiplied by the number of years of the said service which the employee desires to reckon.

Table I—Officers (other than female nurses, midwives and health visitors in whose case the age of compulsory retirement is sixty years).

Age.					Amount for £100 of remuneration in respect of one year of non-contributing service.		
					£	s.	d.
Under age 35					6	10	0
35 and under 36	..	..	..	..	6	10	0
36	"	"	37	..	6	10	0
37	"	"	38	..	6	10	0
38	"	"	39	..	6	11	0
39	"	"	40	..	6	12	0
40	"	"	41	..	6	13	0
41	"	"	42	..	6	14	0
42	"	"	43	..	6	15	0
43	"	"	44	..	6	17	0
44	"	"	45	..	6	19	0
45	"	"	46	..	7	1	0
46	"	"	47	..	7	3	0
47	"	"	48	..	7	5	0
48	"	"	49	..	7	8	0
49	"	"	50	..	7	11	0
50	"	"	51	..	7	14	0
51	"	"	52	..	7	17	0
52	"	"	53	..	8	1	0
53	"	"	54	..	8	5	0
54	"	"	55	..	8	9	0
55	"	"	56	..	8	14	0
56	"	"	57	..	9	0	0
57	"	"	58	..	9	7	0
58	"	"	59	..	9	15	0
59	"	"	60	..	10	5	0
60 and over	..	..	..	..	£10 5s. 0d. less five shillings for each completed year by which the em- ployee's age exceeds sixty.		

Table II—Female nurses, midwives and health visitors in whose case the age of compulsory retirement is sixty years.

Table I shall apply subject to the modification that the amount shown in the Table in relation to an age which corresponds with that of the employee shall be increased by three shillings and sixpence for each completed year by which her age exceeds thirty but so that the addition shall not exceed four pounds four shillings :

Provided that if the age of the employee exceeds fifty-five the amount of the payment shall be twelve pounds eighteen shillings less seven shillings for each completed year by which her age exceeds fifty-five.

Table III—*Servants*

Age.					Amount for £100 of remuneration in respect of one year of non-contributing service.		
					£	s.	d.
Under 25	..	..	..	..	4	2	0
25 and under 26	..	..	..	..	4	2	0
26 " "	27	..	..	..	4	3	0
27 " "	28	..	..	..	4	4	0
28 " "	29	..	..	..	4	5	0
29 " "	30	..	..	..	4	6	0
30 " "	31	..	..	..	4	7	0
31 " "	32	..	..	..	4	9	0
32 " "	33	..	..	..	4	11	0
33 " "	34	..	..	..	4	13	0
34 " "	35	..	..	..	4	15	0
35 " "	36	..	..	..	4	17	0
36 " "	37	..	..	..	4	19	0
37 " "	38	..	..	..	5	1	0
38 " "	39	..	..	..	5	3	0
39 " "	40	..	..	..	5	5	0
40 " "	41	..	..	..	5	7	0
41 " "	42	..	..	..	5	10	0
42 " "	43	..	..	..	5	13	0
43 " "	44	..	..	..	5	16	0
44 " "	45	..	..	..	5	19	0
45 " "	46	..	..	..	6	2	0
46 " "	47	..	..	..	6	6	0
47 " "	48	..	..	..	6	10	0
48 " "	49	..	..	..	6	14	0
49 " "	50	..	..	..	6	18	0
50 " "	51	..	..	..	7	2	0
51 " "	52	..	..	..	7	7	0
52 " "	53	..	..	..	7	12	0
53 " "	54	..	..	..	7	17	0
54 " "	55	..	..	..	8	2	0
55 " "	56	..	..	..	8	8	0
56 " "	57	..	..	..	8	15	0
57 " "	58	..	..	..	9	3	0
58 " "	59	..	..	..	9	13	0
59 " "	60	..	..	..	10	5	0
60 and over ..	..	..	..	..	£10 5s. 0d. less five shillings for each completed year by which the em- ployee's age exceeds sixty.		

* * * * *

[1515]

LOCAL GOVERNMENT SUPERANNUATION (REDUC- TION AND ADJUSTMENT OF SUPERANNUATION ALLOWANCE) REGULATIONS, 1939

S. R. & O., 1939, No. 53

(95807)

January 21, 1939

The Minister of Health, in exercise of the powers conferred on him by subsection (2) of section 31 of the Local Government Superannuation Act, 1937, and of all other powers enabling him in that behalf, hereby makes the following Regulations.

Short Title

1. These Regulations may be cited as the Local Government Superannuation (Reduction and Adjustment of Superannuation Allowance) Regulations, 1939.

Interpretation

2. The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

3. In these Regulations the expression " the Act " means the Local Government Superannuation Act, 1937.

Reduction of superannuation allowance during re-employment

4. A person entitled to any such superannuation allowance or allowances as are mentioned in subsection (1) of section 31 of the Act shall not be entitled to receive in respect of any period during which he is employed by any local authority any greater sum in respect of superannuation allowance than the amount, if any, by which the emoluments of his employment for that period fall short of the remuneration of the employment or employments in relation to which he became entitled to the allowance or allowances, computed for a period of the same length, and the allowance or allowances shall be reduced accordingly, and in proportion, where there are two or more allowances to the amounts thereof respectively :

Provided that if, concurrently with any employment or employments in relation to which he became entitled to such an allowance or allowances as aforesaid, he held any other employment under any local authority in relation to which he did not become entitled to such an allowance as aforesaid, then, if either—

- (a) he continues to hold that other employment ; or
- (b) he ceases to hold that other employment on or after the date on which he became entitled to the allowance or allowances and takes up a new employment under any local authority without having become in relation to that other employment entitled to such a superannuation allowance as aforesaid ;

the allowance or allowances shall not be reduced by virtue of the foregoing provisions of this Article in relation to the emoluments of—

- (i) that other employment ; or
- (ii) any new employment which he so takes up as aforesaid ;

except to the extent, if any, by which the aggregate of the allowance or allowances and the emoluments of that other employment or the new employment, as the case may be, exceeds the aggregate of the remuneration of the employment or employments in relation to which he became entitled to the allowance or allowances and the emoluments of that other employment immediately before the date on which he became entitled to the allowance or allowances.

Adjustment of superannuation rights on cesser of further employment of employee entitled to superannuation allowance

5.—(1) If any person entitled to any such superannuation allowance or allowances as are mentioned in subsection (1) of section 31 of the Act is re-employed by any local authority and is in his new employment a contributory employee or a local Act contributor, then, on his ceasing to hold that employment, the service in respect of which he became entitled to such allowance or allowances as aforesaid shall be reckoned as service for the purpose of ascertaining whether he is qualified for any superannuation allowance in respect of the new employment under Part I of the Act or under the local Act scheme and,

if he is so qualified, he shall be entitled to receive at his option either that allowance in addition to the allowance or allowances to which he had already become entitled or alternatively a superannuation allowance calculated under Part I of the Act or under the local Act scheme, as the case may require, by reference both to service in his new employment and to the service taken into account in the calculation of the allowance or allowances aforesaid and by reference to the annual average of the remuneration or emoluments received by him in respect of such service rendered during the five years immediately preceding the day on which he ceased to hold his new employment :

Provided that—

(a) if any allowance to which he had already become entitled was an annuity calculated at the rate of one eightieth of emoluments in respect of each year of service taken into account, together with a lump sum payment, then the allowance which he may elect to receive in respect of the whole of his service under the foregoing provisions shall be calculated in the same manner and the amount of the lump sum payment receivable by him shall be reduced by the amount of the lump sum payment received by him as part of the allowance to which he became entitled as aforesaid ;

(b) in any other case, the allowance which he may elect to receive in respect of the whole of his service under the foregoing provisions shall be calculated in the manner prescribed by section 8 of the Act so, nevertheless, that any service which for the purpose of calculating the allowance to which he became entitled as aforesaid was reckoned at a fraction of remuneration larger than one one-hundred-and-twentieth but less than one sixtieth in respect of each year of such service shall be reckoned for the purpose of calculating the allowance which he may elect to receive under the foregoing provisions as contributing service of such proportion only of the actual length of the service aforesaid as is obtained by multiplying the number of years of such service by sixty and dividing it by the denominator of the fraction at which that service was reckoned as aforesaid.

(2) Any superannuation allowance payable under this Article shall be paid in the case of a contributory employee out of the appropriate superannuation fund and in the case of a local Act contributor out of the superannuation fund maintained by the local Act authority.

(3) If a person to whom this Article applies elects to receive a superannuation allowance calculated by reference to the whole of his service under local authorities in manner provided by this Article any such superannuation allowance as aforesaid to which he has already become entitled shall cease to be paid and if, in relation to that allowance, he has taken advantage of the provisions of section 9 of the Act, no title to any pension shall accrue by reason thereof.

(4) If a person to whom this Article applies elects to receive such a superannuation allowance as is mentioned in the last preceding paragraph and was in his new employment an employee of a different authority from the authority whose employment he ceased to hold on previously becoming entitled to any such superannuation allowance as

is mentioned in subsection (1) of section 31 of the Act, then, unless the superannuation fund concerned is the same in the case of both employments—

- (a) the authority maintaining the fund out of which the said allowance was payable shall in lieu thereof pay annually from that fund to the superannuation fund out of which the allowance which he has elected to receive is payable, by way of contribution towards that allowance so long as that allowance is payable, an amount equal to the annual amount of the allowance previously payable to him :

Provided that if, in relation to the last mentioned allowance, he has taken advantage of the provisions of section 9 of the Act, the amount of the annual contribution to be made shall be the annual amount of the allowance which would have previously been payable to him had he not taken advantage of those provisions ; and

- (b) upon the death of the person in the circumstances mentioned in paragraph (b) of subsection (3) of section 10 of the Act, the sum payable to his legal personal representatives under the provisions of the said subsection shall be apportioned between the authorities maintaining the superannuation funds concerned in such manner as may be agreed or, in default of agreement, determined by the Minister.

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[1516]

LOCAL GOVERNMENT SUPERANNUATION (SUM IN LIEU OF TRANSFER VALUE) REGULATIONS, 1939

S. R. & O., 1939, No. 54

(97329)

January 21, 1939

The Minister of Health, in exercise of the powers conferred on him by subsection (4) of section 12 of the Local Government Superannuation Act, 1937, and of all other powers enabling him in that behalf, hereby makes the following Regulations.

1. These Regulations may be cited as the Local Government Superannuation (Sum in Lieu of Transfer Value) Regulations, 1939.

2.—(1) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(2) In these Regulations the expression “the Act” means the Local Government Superannuation Act, 1937.

3. These Regulations apply in relation to a person (hereinafter referred to as “the employee”) who became a contributory employee on the appointed day and who immediately before that day was a designated employee paying by instalments a sum in lieu of transfer value pursuant to the provisions of subsection (2) of section 8 of the Act of 1922.

4. Subject as hereinafter provided, the service of the employee by reference to which the sum in lieu of transfer value which was payable by him was ascertained shall be taken into account for the purposes of section 12 of the Act as non-contributing service :

Provided that if before he became a contributory employee he had paid all sums which had accrued due from him before the appointed day under the agreement by virtue of which he was paying by instalments the sum in lieu of transfer value, then, to the extent that the aggregate amount so paid by him, after deduction therefrom of any sum or sums included therein which represent the payment of interest by the employee, would, if it were paid, pursuant to the Regulations made by the Minister under proviso (ii) to section 8 (2) (b) of the Act and for the time being in force, by reference to the salary or wages of the employment in relation to which he became a contributory employee and to his age on the appointed day, enable him to receive a superannuation allowance calculated at the rate of one sixtieth of such salary or wages in respect of each year of service, the whole number, or such lesser number as is requisite, of completed years of the service by reference to which the sum in lieu of transfer value was ascertained shall be reckonable as contributing service.

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[1517]

LOCAL GOVERNMENT SUPERANNUATION (RECKONING OF SERVICE ON TRANSFER) REGULATIONS, 1939

S. R. & O., 1939, No. 55

(96604)

January 21, 1939

The Minister of Health, in exercise of the powers conferred on him by section 18 (1) (b) of the Local Government Superannuation Act, 1937, and of all other powers, enabling him in that behalf, hereby makes the following Regulations.

1. These Regulations may be cited as the Local Government Superannuation (Reckoning of Service on Transfer) Regulations, 1939.

2.—(1) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(2) In these Regulations the expression "the Act" means the Local Government Superannuation Act, 1937.

3. Where a local Act contributor under a local authority ceases to be employed by that authority but within twelve months after so ceasing becomes a contributory employee under another local authority, he shall, subject to the provisions of these Regulations, be entitled to aggregate with any service which he may become entitled to reckon as contributing service in relation to the employment as respects which he becomes such a contributory employee—

- (a) all service which in relation to his former employment would have been reckonable as service or as a period of contribution for the purpose of calculating his superannuation allowance under the local Act scheme if at the date when he ceased to hold his former employment he had been entitled to a superannuation allowance thereunder; and
- (b) all (if any) other previous service:

Provided that for all purposes of the Act other than those relating to eligibility for superannuation allowance account shall be taken of

such service as is mentioned in sub-paragraph (b) of this paragraph as if the period of that service had been one half its actual length.

4. If in relation to part (hereinafter referred to as the said service) of any such previous service as is mentioned in paragraph (a) of the last preceding Article the employee pursuant to the provisions of the local Act scheme had been discharging but had not fully discharged a liability subsisting at the date when he ceased to hold his former employment to pay a sum by instalments to the superannuation fund maintained by the local Act authority as a condition of being entitled to reckon the said service for any of the purposes of the local Act scheme, then, for all purposes of the Act other than those relating to eligibility for superannuation allowance—

- (a) account shall be taken of the said service as if the period thereof had been one half its actual length ; and
- (b) to the extent that one half the aggregate amount paid on account of the sum due in discharge of the liability aforesaid would, if it were paid, pursuant to the Regulations made by the Minister under proviso (ii) to section 8 (2) (b) of the Act and for the time being in force, in relation to the emoluments of his former employment at the date when he ceased to hold that employment and to his age at such date, enable him to receive a superannuation allowance calculated at the rate of one sixtieth of such emoluments in respect of each year of service, account shall also be taken of the remaining half of the actual length of the said service.

5. If in relation to part (hereinafter referred to as the said service) of any such previous service as is mentioned in paragraph (a) of Article 3 of these Regulations the employee pursuant to the provisions of the local Act scheme would, had he not ceased to hold his former employment, have been under a liability to make payments to the superannuation fund maintained by the local Act authority by way of a contribution of a percentage of emoluments additional to the percentage payable in respect of current service as a condition of being entitled to reckon the said service for any of the purposes of the local Act scheme, then, for all purposes of the Act other than those relating to eligibility for superannuation allowance, the provisions of paragraphs (a) and (b) of the last preceding Article shall apply in relation to the said service with the substitution for the reference in paragraph (b) to the sum due of a reference to addition a percentage contributions.

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[1518]

LOCAL GOVERNMENT SUPERANNUATION (MENTAL HOSPITAL, ETC., EMPLOYMENT) REGULATIONS, 1939

S. R. & O., 1939, No. 56

(96608)

January 21, 1939

The Minister of Health, in exercise of the powers conferred on him by paragraphs 2 (1) (a) and (b), 3 (2) (a) and 4 of Part V of the Second Schedule to the Local Government Superannuation Act, 1937, and of

all other powers enabling him in that behalf, hereby makes the following Regulations.

PART I

INTRODUCTORY

Short Title

1. These Regulations may be cited as the Local Government Superannuation (Mental Hospital, etc., Employment) Regulations, 1939.

Interpretation

2.—(1) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(2) In these Regulations the following expressions have the respective meanings hereby assigned to them—

“ the Act of 1937 ” means the Local Government Superannuation Act, 1937 ;

“ the Act of 1909 ” means the Asylums Officers’ Superannuation Act, 1909, as extended by any subsequent enactment ;

“ established employee ” means an established officer or servant within the meaning of the Act of 1909.

PART II

ESTABLISHED EMPLOYEE BECOMING CONTRIBUTORY EMPLOYEE OR LOCAL ACT CONTRIBUTOR

Reckoning of previous service

3.—(1) A contributory employee to whom paragraph 2 of Part V of the Second Schedule to the Act of 1937 applies shall be entitled—

(a) to reckon as contributing service in relation to the employment in respect of which he is such a contributory employee all service which immediately before the date on which he ceased to be an established employee would have been treated as service for the purpose of computing a superannuation allowance under the Act of 1909 ;

(b) to reckon as non-contributing service in relation to the said employment all other service (if any) rendered by him before the date on which he became a contributory employee.

(2) A local Act contributor to whom paragraph 2 of Part V of the Second Schedule to the Act of 1937 applies shall be entitled to reckon as service for the purposes of the local Act scheme—

(a) all service rendered by him as an established employee before the date on which he ceased to be employed as such which immediately before that date would have been treated as service for the purpose of computing a superannuation allowance under the Act of 1909 ;

(b) all (if any) other previous service :

Provided that for all purposes of the scheme other than those relating to eligibility for superannuation allowance account shall be taken of such service as is mentioned in sub-paragraph (b) of this paragraph as if the period of that service had been one half its actual length :

Provided also that previous service of which account is taken under the foregoing provisions shall be aggregated with current service of which account is taken pursuant to the provisions of the scheme, and if the service as so calculated includes a fraction of a year and the calculation of the superannuation allowance under the scheme is made by reference to completed years that fraction shall, if it amounts to or exceeds six months, be treated as a year, and in any other case be disregarded.

Contribution towards superannuation allowance

4.—(1) If a contributory employee or local Act contributor to whom the last preceding Article applies becomes entitled to a superannuation allowance under Part I of the Act of 1937 or under a local Act scheme the annual contribution towards that allowance to be made by the body by which he was employed as an established employee before becoming a contributory employee or local Act contributor shall be an amount equal to the annual amount of the superannuation allowance under the Act of 1909 to which he would have been entitled had he been an officer or servant of the second class and had that Act provided that at the date when he ceased to be an established employee there should be payable to him thereunder an allowance the annual amount of which should be computed by reference to the number of years of service which he had then completed and the amount of his salary or wages and emoluments as an established employee calculated in accordance with the provisions of section 16 of the Act of 1909.

(2) If the fund out of which was paid the salary or wages as an established employee of a person in respect of whose superannuation allowance a contribution calculated as aforesaid becomes payable by the body under which he was an established employee is not the fund out of which superannuation allowances under the Act of 1909 are paid to established employees of that body, the contribution shall be made out of the superannuation or other fund out of which such allowances are paid.

PART III

CONTRIBUTORY EMPLOYEE, LOCAL ACT CONTRIBUTOR OR DESIGNATED EMPLOYEE BECOMING ESTABLISHED EMPLOYEE

Reckoning of previous service

5.—(1) This Article applies to an established employee to whom sub-paragraph (2) of paragraph 3 of Part V of the Second Schedule to the Act of 1937 applies.

(2) An established employee to whom this Article applies by virtue of his having been a contributory employee shall, subject as hereinafter provided, be entitled to aggregate with any service which he may become entitled to reckon for the purposes of the Act of 1909 with the body under whom he first becomes an established employee all service which immediately before the date on which he ceased to be a contributory employee he was entitled to reckon as service for the purposes of the Act of 1937.

(3) For all purposes of the Act of 1909 other than those relating to eligibility for superannuation allowance the period of any such service by a contributory employee as is mentioned in the last preceding paragraph which was non-contributing service shall—

- (a) if under the Act of 1937 that service would have been reckonable for the purpose aforesaid at the rate of one one-hundred-and-twentieth of remuneration in respect of each such year of service or at some larger fraction not exceeding one sixtieth, be reckoned at such proportion only of the actual length of that service as is obtained by multiplying the number of years of such service by sixty and dividing it by the denominator of the fraction at which that service would have been reckonable as aforesaid ;
- (b) if under the Act of 1937 as amended by any local Act that service would have been reckonable for the purpose aforesaid at the rate of one one-hundred-and-sixtieth of remuneration in respect of each such year of service or at some larger fraction not exceeding one eightieth, be reckoned at such proportion only of the actual length of that service as is obtained by multiplying the number of years of such service by eighty and dividing it by the denominator of the fraction at which that service would have been reckonable as aforesaid :

Provided that if as a condition of being entitled to reckon any non-contributing service at some fraction of remuneration larger than one one-hundred-and-twentieth, or one one-hundred-and-sixtieth, as the case may be, a contributory employee had been discharging but had not fully discharged a liability subsisting when he ceased to be such an employee to pay a sum by instalments to the appropriate superannuation fund, then account shall be taken of the said service as if the period thereof had been one half its actual length, and to the extent that one half of the aggregate amount paid on account of the sum due in discharge of the liability aforesaid would, if it were paid, pursuant to the Regulations made by the Minister under proviso (ii) to section 8 (2) (b) of the Act of 1937 and for the time being in force, in relation to his remuneration at the date when he ceased to be a contributory employee and to his age at such date, enable him to receive a superannuation allowance calculated at the rate of one sixtieth of such remuneration in respect of each year of service, account shall also be taken of the remaining half of the actual length of the said service :

Provided nevertheless that if on ceasing to be employed as an established employee a person to whom any of the preceding provisions of this Article have been applicable is an officer or servant of the first class the period of any previous service which is taken into account in accordance with the preceding provisions of this Article for the purpose of calculating any superannuation allowance to which he may be entitled shall be reckoned as if that period were reduced by one sixth.

(4) An established employee to whom this Article applies, by virtue of his having been a local Act contributor shall, subject as hereinafter provided, be entitled to aggregate with any service which he may become entitled to reckon for the purposes of the Act of 1909 with the body under whom he first becomes an established employee all service which immediately before he ceased to be a local Act contributor he was entitled to reckon as service or as a period of contribution for the purposes of the local Act scheme :

Provided that if part (hereinafter referred to as the said service) of any such service as aforesaid was service in relation to which the

established employee, before he ceased to be a local Act contributor, had been discharging but had not fully discharged a liability to pay a sum by instalments to the superannuation fund maintained by the local Act authority, or had been under a liability to make payments to that fund by way of a contribution of a percentage of emoluments additional to the percentage payable in respect of current service, as a condition of being entitled to reckon the said service for the purposes of the local Act scheme, then, for all purposes of the Act of 1909 other than those relating to eligibility for superannuation allowance, account shall be taken of the said service only to the extent that the aggregate amount paid on account of the sum due or of additional percentage contributions in discharge of the liability aforesaid would, if it were paid, pursuant to the Regulations made by the Minister under proviso (ii) to section 8 (2) (b) of the Act of 1937 and for the time being in force, in relation to his emoluments at the date when he ceased to be a local Act contributor and to his age at such date, enable him to receive a superannuation allowance calculated at the rate of one sixtieth of such emoluments in respect of each year of service :

Provided nevertheless that if on ceasing to be employed as an established employee a person to whom any of the preceding provisions of this paragraph have been applicable is an officer or servant of the first class the period of any previous service which is taken into account in accordance with the provisions of this paragraph for the purpose of calculating any superannuation allowance to which he may be entitled shall be reckoned as if that period were reduced by one sixth.

(5) An established employee to whom this Article applies by virtue of his having been a designated employee shall be entitled to aggregate with any service which he may become entitled to reckon for the purposes of the Act of 1909 with the body under whom he first becomes an established employee all service which immediately before the date on which he ceased to be a designated employee he was entitled to reckon as service for the purposes of the Act of 1922 in relation to the post in virtue of which he was such an employee :

Provided that for all purposes of the Act of 1909 other than those relating to eligibility for superannuation allowance—

(a) in the case of a person who when he ceases to be employed as an established employee is an officer or servant of the first class, the period of any such service which was contributing service under the Act of 1922 or which was non-contributing service that under the Act of 1922 as amended by any local Act would have been reckonable at the same rate as contributing service for the purpose of calculating his superannuation allowance had he become entitled to one thereunder at the date when he ceased to be a designated employee shall be reckoned as if that service had been five sixths its actual length ;

(b) in the case of any established employee, any such service which was non-contributing service under the Act of 1922, not being non-contributing service which would have been reckonable as aforesaid, shall be reckoned as if the period thereof had been one half its actual length :

Provided nevertheless that if on ceasing to be employed as an established employee a person to whom the provisions of head (b) of the foregoing proviso have been applicable is an officer or servant of

the first class the period of any previous service which is taken into account in accordance with the preceding provisions of this Article for the purpose of calculating any superannuation allowance to which he may be entitled shall be reckoned as if that period were reduced by one sixth.

Fund to which transfer value in respect of previous service is to be paid

6. If the fund out of which the salary or wages of an established employee to whom the last preceding Article applies is paid by the body under which he becomes such an employee is not the fund out of which superannuation allowances under the Act of 1909 are paid to established employees of that body any transfer value payable under paragraph 3 (2) (b) of Part V of the Second Schedule to the Act of 1937 shall be paid into the fund out of which such allowances are paid.

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[1519]

LOCAL GOVERNMENT SUPERANNUATION (SERVICE OF REGISTRATION OFFICERS) REGULATIONS, 1939

S. R. & O., 1939, No. 57

(96190)

January 21, 1939

The Minister of Health, in exercise of the powers conferred on him by sub-paragraph (b) of paragraph 2 of Part IV of the Second Schedule to the Local Government Superannuation Act, 1937, and of all other powers enabling him in that behalf, hereby makes the following Regulations.

Short Title

1. These Regulations may be cited as the Local Government Superannuation (Service of Registration Officers) Regulations, 1939.

Interpretation

2.—(1) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(2) In these Regulations the expression "the Act" means the Local Government Superannuation Act, 1937.

Registration Officers first appointed since the 31st day of March, 1930, who in other capacities were transferred poor law employees subject to the Act of 1896.

3.—(1) A registration officer first appointed as such after the thirty-first day of March, 1930, and before the appointed day who—

(a) was at the date of such appointment subject to the Act of 1896 in some other capacity and having remained so subject was still so subject immediately before the appointed day; and

(b) having been in office as a registration officer immediately before the appointed day became as such a contributory employee on the appointed day;

shall, subject to the provisions of the Act, be entitled to reckon as contributing service in relation to the appointment in respect of which he so became a contributory employee any service rendered by him as a registration officer before the appointed day which immediately

before that day would have been treated as service for the purposes of the Act of 1896 :

Provided that if he has not made in respect of such service all the contributions which he would have been required to make under the Act of 1896 the provisions of the foregoing paragraph shall not apply in relation to him unless he pays to the appropriate administering authority to be by them credited to the appropriate superannuation fund such a sum as may be necessary to provide such contributions, and any such sum so paid shall be treated for the purposes of the Act as contributions made by him to that fund in relation to the employment in respect of which he so become a contributory employee as aforesaid to that fund.

(2) A registration officer first appointed as such after the thirty-first day of March, 1930, and before the appointed day who, by virtue of a special provision contained in a local Act in force immediately before the appointed day, became as such subject to the Act of 1896 and who being immediately before the appointed day still so subject became a contributory employee on the appointed day shall be entitled, subject to the provisions of the Act, to reckon as contributing service any service rendered by him as a registration officer before the appointed day which immediately before that day would have been treated as service for the purposes of the Act of 1896.

Registration Officers first appointed since the 31st day of March, 1930, who by virtue of local Act provisions were subject to the Act of 1922.

4. A registration officer first appointed as such after the thirty-first day of March, 1930, and before the appointed day who, by virtue of a special provision contained in a local Act in force immediately before the appointed day, became as such subject to the Act of 1922 and who being immediately before the appointed day still so subject became a contributory employee on the appointed day shall be entitled, subject to the provisions of the Act—

- (a) to reckon as contributing service in relation to the appointment in respect of which he became a contributory employee any service rendered by him as a registration officer before the appointed day which immediately before that day would have been treated as contributing service for the purposes of the Act of 1922 ; and
- (b) to reckon as non-contributing service in relation to the said appointment all other service (if any) so rendered by him before the appointed day which immediately before that day would not have been treated as contributing service for the purposes of the Act of 1922.

Registration Officers first appointed since the 31st March, 1930, who first became subject to provision for superannuation on or after the appointed day.

5.—(1) This Article applies to a registration officer first appointed as such after the thirty-first day of March, 1930, and before the appointed day who—

- (a) being in office as a registration officer immediately before the appointed day but not having been as such subject to any provision for superannuation became as such officer a contributory employee or local Act contributor on the appointed day ; or

- (b) having ceased to hold office before the appointed day without having become subject to any provision for superannuation became a contributory employee or local Act contributor on re-appointment as a registration officer on or after the appointed day and within twelve months from the date on which he so ceased to hold office.

(2) Subject to the provisions of paragraph (8) of this Article, a registration officer to whom this Article applies, if he gives notice in writing to the employing authority or the local Act authority within one month after the appointed day or (as the case may be) after the date when he was re-appointed a registration officer as aforesaid (hereinafter referred to as "the material date") that he desires that his service as registration officer before the appointed day shall be reckonable as service for the purposes of the Act or the local Act scheme, shall be entitled, subject to the provisions thereof, to reckon such service as contributing service or as service in relation to the appointment in respect of which he became a contributory employee or local Act contributor and shall become liable to make the following payments to the employing authority or the local Act authority, namely—

- (a) a sum equal to the amount of any additional remuneration received by him from any local authority in respect of any appointment held by him as registration officer before the appointed day on account of the fact that service in that appointment was not reckonable for the purposes of superannuation; and
 - (b) a sum calculated at the rate of five per cent. of the aggregate remuneration received by him in respect of any such appointment as aforesaid after deduction therefrom of any such additional remuneration as is mentioned in sub-paragraph (a) of this paragraph.
- (3) The aggregate amount payable by a registration officer under paragraph (2) of this Article may be paid—

- (a) in a lump sum forthwith; or
 - (b) partly in a lump sum of not less than one fifth of such sum forthwith and as to the remainder by such instalments as may be agreed between him and the employing authority or the local Act authority; or
 - (c) wholly by such instalments as aforesaid
- (4) If such aggregate amount is made payable, partly or wholly, by instalments, not less than one fifth thereof shall be payable within one year after the material date, and the whole of the instalments shall be payable within five years after that date, with interest upon the amount for the time being unpaid, calculated at the rate of three per cent. per annum, with half yearly rests as from the material date.
- (5) If such aggregate amount is payable, partly or wholly, by instalments, then, while any instalment remains to be paid the following provisions shall have effect—

- (a) If the officer becomes entitled to a superannuation allowance under the Act or the local Act scheme, a deduction in respect of any amount due may be made from any payment on account of the superannuation allowance;
- (b) if the officer dies without having become entitled to a super-

annuation allowance, all liability in respect of the balance of the debt shall cease ;

- (c) if the officer ceases to hold office without having become entitled to a superannuation allowance and is entitled to a return of contributions, then, at the expiration of twelve months he shall cease to be entitled to any rights in respect of payments made by him on account of the debt, except any right to a return of the amount of such payments, and his liability in respect of the balance of the debt shall cease, unless within that period a transfer value under the Act becomes payable in respect of the officer, in which event the right to receive the balance of the debt shall be deemed to be transferred to the employing authority or the local Act authority whose employment the officer has entered and the officer shall pay to that authority an amount equal to any sum which may have been returned to him in respect of payments made by him on account of the debt.

(6) Any sums paid to the employing authority or the local Act authority by the officer under the foregoing provisions of this Article other than a payment made under sub-paragraph (a) of paragraph (2) of this Article shall be paid into the appropriate superannuation fund or the local Act superannuation fund and shall be treated as contributions made by him to that fund in relation to the employment as registration officer in respect of which he is a contributory employee or local Act contributor to that fund.

(7) In the computation, for the purposes of a superannuation allowance payable to the officer under the Act or the local Act scheme, of the remuneration of the officer in respect of such an appointment as is referred to in sub-paragraph (a) of paragraph (2) of this Article, account shall not be taken of any additional remuneration received by him in respect of service in that appointment.

(8) If such a registration officer as is mentioned in sub-paragraph (a) of paragraph (1) of this Article, being in some other capacity a transferred poor law employee subject to the Act of 1922, had been, and was immediately before the appointed day being, treated in virtue of his appointment as registration officer as being subject to the Act of 1922 by the employing authority in whose employment he became a contributory employee on the appointed day, he shall be entitled, subject to the provisions of the Act, to reckon service in that appointment as contributing service in relation to the appointment in respect of which he became a contributory employee and his contributions to a superannuation fund under the Act of 1922 in respect of the appointment in virtue of which he had been treated as being subject to that Act, shall be treated as contributions duly made by him to the appropriate superannuation fund in relation to the employment in respect of which he became a contributory employee, and

- (a) if the whole of the contributions required by the Act of 1922 have been made at the rate prescribed by that Act, paragraphs (2) to (7) of this Article shall not apply in relation to him ; or
- (b) if the whole of such contributions have not been made or the contributions made were calculated at a rate less than the rate prescribed by the Act of 1922, the provisions of paragraphs (2) and (7) of this Article shall not apply in relation to him but he shall become liable to pay to the employing

authority the difference between the aggregate amount of the contributions made and a sum calculated at the rate of five per cent. of the aggregate remuneration received by him in respect of the appointment in virtue of which he had been treated as being subject to the Act of 1922 and the provisions of paragraphs (3) to (6) of this Article shall, with the necessary modifications, apply in relation to the officer in respect of the amount so payable by him.

Registration Officers who having been as such transferred poor law employees subject to the Act of 1896 or the Act of 1922 ceased before the appointed day to be so subject.

6.—(1) Subject to the provisions of paragraph (4) thereof, this Article applies to a registration officer who by virtue of the Local Government Act, 1929, remained subject as a registration officer to the Act of 1896, or became subject as such to the Act of 1922, but ceased before the appointed day to be so subject and who—

- (a) being in office as a registration officer immediately before the appointed day but not having become as such subject to any provision for superannuation became as such officer a contributory employee on the appointed day ; or
- (b) becomes a contributory employee on re-appointment as a registration officer on or after the appointed day and within twelve months from the date on which he so ceased to be subject to the Act of 1896 or the Act of 1922 and without having in the interval become subject as a registration officer to any provision for superannuation.

(2) A registration officer to whom this Article applies, if he gives notice in writing to the employing authority within one month after the appointed day or, as the case may be, after the date when he is re-appointed a registration officer as aforesaid that he desires that his service as registration officer before the appointed day shall be reckonable as service for the purposes of the Act, shall be entitled, subject to the provisions of the Act, to reckon such service as contributing service in relation to the employment in respect of which he became a contributory employee and shall become liable to make the following payments to the employing authority, namely—

- (a) a sum equal to the amount of any additional remuneration received by him from any local authority in respect of any appointment held by him as registration officer before the appointed day on account of the fact that service in that appointment was not reckonable for the purposes of superannuation ; and
- (b) a sum equal to the same percentage of the aggregate remuneration received by him in respect of any such appointment as aforesaid, after deduction therefrom of any such additional remuneration as is mentioned in sub-paragraph (a) of this paragraph, as the percentage of his remuneration which he was required to contribute while he was subject to the Act of 1896 or the Act of 1922, as the case may be.

(3) The provisions of paragraphs (3) to (7) of the last preceding Article shall, with the necessary modifications, apply in relation to a registration officer to whom this Article applies.

(4) This Article shall not apply in relation to a registration officer

who on the date when he first became a contributory employee was as such officer a person to whom paragraph 9 of Part I of the Second Schedule to the Act applies, unless he makes the payment thereby prescribed. [1520]

* * * * *

LOCAL GOVERNMENT SUPERANNUATION (ENGLAND AND SCOTLAND) REGULATIONS, 1939

P. & S. R. & O., 1939, No. 283/S.26

(99757)

March 8, 1939

The Secretary of State and the Minister of Health, acting jointly, hereby certify under section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into immediate operation, and, in exercise of the powers conferred on them by section 38 of the Local Government Superannuation Act, 1937, and section 36 of the Local Government Superannuation (Scotland) Act, 1937, and of all other powers enabling them in that behalf, hereby make the following Regulations to come into operation forthwith as provisional rules in England and as statutory rules in Scotland.

PART I

GENERAL

Short Title

1. These Regulations may be cited as the Local Government Superannuation (England and Scotland) Regulations, 1939.

Interpretation

2.—(1) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(2) In these Regulations the following expressions have the respective meanings hereby assigned to them—

“the English Act” means the Local Government Superannuation Act, 1937;

“the Scottish Act” means the Local Government Superannuation (Scotland) Act, 1937;

“English contributory employee” means a contributory employee within the meaning of the English Act, “Scottish contributory employee” means a contributory employee within the meaning of the Scottish Act, and “English” or “Scottish”, as the case may be, in relation to the expressions “designated employee” “local Act authority” “local Act contributor” “local authority” and other expressions similarly used have corresponding meanings;

“the appointed day” means in Part II of these Regulations the first day of April, 1939, and in Part III thereof the 16th day of May, 1939.

(3) Subject as aforesaid, references in these Regulations applicable in relation to a person in the employment of a local authority at a point of time when that person is or was serving in England shall,

save as otherwise provided and unless the context otherwise requires, be construed in conformity with the provisions of the English Act, and a similar construction in relation to the Scottish Act shall be adopted in respect of references applicable in relation to a person in the employment of a local authority at a point of time when that person is or was serving in Scotland.

PART II

RIGHTS AND LIABILITIES OF EMPLOYEES OF LOCAL AUTHORITIES SERVING IN SCOTLAND AFTER SERVICE IN ENGLAND, AND OF THE ENGLISH AND SCOTTISH LOCAL AUTHORITIES CONCERNED

Reckoning of previous service

3.—(1) Subject to the provisions of paragraph (6) thereof, this Article applies to—

- (a) an English contributory employee or an English local Act contributor who ceases to be such an employee or contributor but within twelve months after so ceasing becomes a Scottish contributory employee or a Scottish local Act contributor; and
- (b) an English designated employee who ceased before the appointed day to hold his employment under an English local authority and has not become an English contributory employee or English local Act contributor but who, within twelve months after so ceasing, becomes a Scottish contributory employee.

(2) If a person to whom this Article applies was an English contributory employee and is a Scottish contributory employee he shall be entitled to reckon as contributing service under the Scottish Act all service which in relation to his English employment he was entitled to reckon as contributing service under the English Act immediately before he ceased to hold that employment.

(3) If a person to whom this Article applies was an English local Act contributor and is a Scottish contributory employee he shall, in respect of the reckoning of previous service, enjoy rights and be subject to liabilities similar to those respectively conferred and imposed in relation to a Scottish local Act contributor who becomes a Scottish contributory employee by any Regulations made under section 13 (1) (b) of the Scottish Act and for the time being in force, and those Regulations shall apply accordingly with the necessary modifications.

(4) If a person to whom this Article applies was an English contributory employee or an English local Act contributor and is a Scottish local Act contributor he shall, in respect of the reckoning of previous service, enjoy rights and be subject to liabilities similar to those respectively conferred and imposed, in relation to a Scottish contributory employee or a Scottish local Act contributor under a Scottish local authority who ceases to be such and becomes a Scottish local Act contributor under the Scottish local Act authority whose employment the person has entered, by the scheme made by that Scottish local Act authority under section 22 of the Scottish Act and for the time being in force, and that scheme shall apply accordingly, with the necessary modifications.

(5) If a person to whom this Article applies was an English designated employee and is a Scottish contributory employee he shall, in respect of the reckoning of previous service, enjoy rights and be subject

to liabilities similar to those which he would have enjoyed and to which he would have been subject respectively had he been a Scottish designated employee in whose case the provisions of subsections (1) and (2) of section 33 of the Scottish Act have effect.

(6) This Article shall not apply in relation to any employee unless within three months of entering upon his new employment he informs the Scottish local authority whose employment he has entered that he has previously served in the employment of an English local authority, and unless on becoming a contributory employee or local Act contributor he pays to the authority maintaining the superannuation fund relating to the employment in respect of which he is such employee or contributor an amount equal to any sum which, on his ceasing to hold his employment under the English local authority, was paid to him by way of a return, whether with or without interest, of such contributions to or additional contributory payment into a superannuation fund as are mentioned in subsection (5) of section 10 of the English Act or of moneys which pursuant to any Regulations for the time being in force under that Act were treated as such contributions as aforesaid.

Payment of Transfer Values

4. Where a person who was an English contributory employee or an English local Act contributor or an English designated employee has become a Scottish contributory employee or a Scottish local Act contributor in such circumstances that the last preceding Article is applicable in relation to him, a transfer value calculated in the manner prescribed by any Regulations for the time being in force under subsection (1) of section 24 of the Scottish Act or under subsections (1) and (2) of section 33 of that Act, as the case may require, shall be payable, as if the person had previously been a Scottish contributory employee or a Scottish local Act contributor, by the English local authority maintaining the superannuation fund out of which a transfer value would have been payable, had the employee become an English contributory employee or an English local Act contributor, to the Scottish local authority maintaining the superannuation fund relating to the employment which he has entered, to be by them paid into that fund, and the Regulations aforesaid shall apply accordingly, with the necessary modifications.

Contributions of certain employees

5.—(1) In the case of a Scottish contributory employee or Scottish local Act contributor to whom Article 3 of these Regulations applies and who, had he become an English contributory employee or an English local Act contributor by virtue of the employment in respect of which he is a Scottish contributory employee or Scottish local Act contributor, would, by virtue of section 6 (1) (a) of the English Act or of any of the provisions of Part I of the Second Schedule to that Act or of such provisions contained in schemes made by English local Act authorities under subsection (1) of section 26 of the English Act as are mentioned in paragraph (b) of that subsection, have been required to contribute to the superannuation fund relating to his employment an amount not exceeding five per cent. of the remuneration or the emoluments of his employment, the percentage of the remuneration or emoluments of his Scottish employment which shall be payable by way of contribution to the superannuation fund relating to that employment shall be five per cent :

Provided that in the case of a Scottish local Act contributor subject to a local Act scheme under which the percentage contribution payable is less than five per cent., the percentage contribution payable shall be such smaller percentage contribution.

(2) A Scottish contributory employee to whom Article 3 of these Regulations applies shall not be required to make any contribution to the Scottish appropriate superannuation fund if, had he become an English contributory employee by virtue of the employment in respect of which he is a Scottish contributory employee, he would have been exempted from liability to contribute to the English appropriate superannuation fund by virtue of the proviso to subsection (1) of section 6 of the English Act.

Return of contributions

6.—(1) For the purposes of section 10 of the Scottish Act references to the aggregate amount of an employee's contributions to a superannuation fund in subsection (5) thereof, in relation to a person to whom Article 3 applies, shall be deemed to include references to any such contributions or additional contributory payment paid or made by him to a superannuation fund as are mentioned in subsection (5) of section 10 of the English Act, and to moneys paid by him under any Regulations for the time being in force under the English Act which pursuant thereto are to be treated as such contributions as aforesaid.

(2) For the purposes of subsection (1) of section 12 of the Scottish Act the reference to contributions under the Scottish Act in the proviso thereto, in relation to such a person as aforesaid, shall be deemed to include a reference to contributions under the English Act.

Teachers

7. If any Scottish contributory employee to whom Article 3 of these Regulations applies had been entitled as an English contributory employee to reckon under section 17 of the English Act any such service as is mentioned in that section, that service shall be deemed to be service to which section 15 of the Scottish Act applies as if in relation to that service—

- (a) references therein to the Teachers Acts as therein defined or to the Teachers Acts and Superannuation Scheme framed in pursuance thereof were references to the Teachers Acts as defined in the English Act;
- (b) there were substituted for the words "if any period which, in order to avoid duplicate pensions, has not been reckoned as service for the purpose of calculating his retiring allowance, had been so reckoned" the words "but for any deduction made by the Board of Education under section seven of the Teachers (Superannuation) Act 1925"; and
- (c) the provisions of subsection (2) of section 17 of the English Act formed part of section 15 of the Scottish Act, with the substitution for the words "such a contributory employee as is mentioned in the preceding subsection" of the words "a contributory employee who before becoming such an employee had been a person entitled to the benefit of sub-section (1) of section 17 of the Local Government Superannuation Act, 1937".

Female nurses, midwives and health visitors

8. If any Scottish contributory employee to whom Article 3 of these Regulations applies is a female nurse, midwife or health visitor who had been in a similar capacity an English contributory employee to whom section 16 of the English Act did not apply, she shall be deemed for the purposes of the Scottish Act to be a person to whom section 16 thereof does not apply.

Persons entering or leaving employment as mental hospital employees

9. If—

- (a) an English mental hospital employee ceases to be employed as such or so ceased before the appointed day ; or
- (b) an English contributory employee or an English local Act contributor under an English local authority ceases to be employed as such by them ; or
- (c) an English designated employee ceased before the appointed day to be subject to the Act of 1922 ;

but, on or after the appointed day and within twelve months after so ceasing, is employed by any Scottish body in such circumstances that, had the Scottish body been an English body, any of the provisions of Part V of the Second Schedule to the English Act would have had effect with respect to him, the English body shall be deemed to be a Scottish body for the purposes of the application in relation to him and the Scottish and English bodies concerned of the provisions of the Second Schedule to the Scottish Act and any Regulations made thereunder and from time to time in force.

Whole-time officers appointed in a temporary capacity

10.—(1) An English contributory employee or an English local Act contributor who ceases to be employed as such and becomes such a whole-time officer of such a Scottish authority as is mentioned in subsection (1) of section 25 of the Scottish Act shall be deemed to have been a Scottish contributory employee or a Scottish local Act contributor for the purpose of the application in relation to him of the proviso to that subsection.

(2) Where such a whole-time officer of a Scottish local authority as is mentioned in subsection (2) of section 25 of the Scottish Act has on or after the appointed day been in the employment of any English authority specified in Part I of the First Schedule to the English Act, that authority shall be deemed to be an authority specified in Part I of the First Schedule to the Scottish Act for the purpose of the application in relation to him of that subsection.

(3) If such a whole-time officer of an English local authority as is mentioned in subsection (3) of section 30 of the English Act ceases to be employed by them on or after the appointed day, and within twelve months after so ceasing becomes a whole-time officer of an authority specified in Part I of the First Schedule to the Scottish Act but by virtue of subsection (1) of section 25 of the Scottish Act does not become a contributory employee or local Act contributor, then, if at that time or later he becomes, by virtue of subsection (2) of the said section or otherwise, a contributory employee or local Act contributor under that Scottish authority, such a transfer value as is mentioned in subsection (3) of the said section shall be payable in manner thereby prescribed as if the English authority had been a Scottish authority.

Regulations under proviso (ii) to section 8 (2) (b) of the English Act

11.—(1) Where an English contributory employee who is in course of paying a sum by instalments under the Regulations made under proviso (ii) to section 8 (2) (b) of the English Act ceases to hold his employment and becomes a Scottish contributory employee in such circumstances that if the employment he holds were an English employment the provisions of paragraph 3 (d) of Article 4 of those Regulations would become applicable in relation to him, the corresponding provisions of the Regulations made under proviso (ii) to section 8 (2) (b) of the Scottish Act and for the time being in force shall apply in relation to him and to the Scottish employing authority as if he had previously been a Scottish contributory employee paying a sum by instalments under those Regulations.

(2) Where an English contributory employee who is in course of paying such a sum by instalments as is mentioned in the preceding paragraph ceases to hold his employment and becomes a Scottish local Act contributor, the provisions of the scheme made under section 22 of the Scottish Act by the Scottish local Act authority whose employment he has entered and for the time being in force relating to the reckoning of previous service by reference to the aggregate amount paid on account of a sum payable by instalments under Regulations made under proviso (ii) to section 8 (2) (b) of the Scottish Act by a person who having been a Scottish contributory employee has become subject to the local Act scheme administered by that Scottish local Act authority shall apply as if the scheme contained a similar provision in relation to such English contributory employee as aforesaid in terms applicable to the Regulations made under proviso (ii) to section 8 (2) (b) of the English Act.

Service in Scotland after teaching service in England

12. If a person who leaves the employment of an English local authority enters the employment of a Scottish local authority and then or subsequently becomes a Scottish contributory employee, whether by virtue of the Scottish Act or of that Act and these Regulations, in such circumstances that had he become an English contributory employee he would have been entitled to the benefit of subsection (1) of section 17 of the English Act in regard to the reckoning of such service as is mentioned in that subsection, Article 7 of these Regulations shall apply to him in respect of that service as it applies to a Scottish contributory employee to whom Article 3 of these Regulations applies.

Reduction of allowance during re-employment and adjustment of rights thereafter

13.—(1) If a person entitled to a superannuation allowance under Part I of the English Act (other than an allowance payable to him in respect of service rendered whether in England or in Scotland as a designated employee and a contributory employee for a period of years during no-part of which was he for a continuous period of more than twelve months not a contributory employee or local Act contributor in either country or subject to the Act of 1922) proposes to accept further employment with any Scottish local authority, he shall inform the authority that he is so entitled and, if he enters their employment, shall forthwith give notice in writing that he is so employed to the authority from whom he receives the allowance.

(2) In any such case as aforesaid the superannuation allowance shall be deemed to be an allowance to which subsection (2) of section 26 of the Scottish Act applies and any Regulations made thereunder shall apply accordingly as if references to a local authority or an authority included references to an English local authority or an English authority respectively, and as if references to any provision of the Scottish Act included references to the corresponding provision of the English Act.

PART III

RIGHTS AND LIABILITIES OF EMPLOYEES OF LOCAL AUTHORITIES SERVING IN ENGLAND AFTER SERVICE IN SCOTLAND AND OF THE SCOTTISH AND ENGLISH LOCAL AUTHORITIES CONCERNED

Reckoning of previous service

14.—(1) Subject to the provisions of paragraph (6) thereof, this Article applies to—

- (a) a Scottish contributory employee or a Scottish local Act contributor who ceases to be such an employee or contributor but within twelve months after so ceasing becomes an English contributory employee or an English local Act contributor; and
- (b) a Scottish designated employee who ceased before the appointed day to hold his employment under a Scottish local authority and has not become a Scottish contributory employee or Scottish local Act contributor but who, within twelve months after so ceasing, becomes an English contributory employee.

(2) If a person to whom this Article applies was a Scottish contributory employee and is an English contributory employee he shall be entitled to reckon as contributing service under the English Act all service which in relation to his Scottish employment he was entitled to reckon as contributing service under the Scottish Act immediately before he ceased to hold that employment.

(3) If a person to whom this Article applies was a Scottish local Act contributor and is an English contributory employee he shall, in respect of the reckoning of previous service, enjoy rights and be subject to liabilities similar to those respectively conferred and imposed in relation to an English local Act contributor who becomes an English contributory employee by any Regulations made under section 13 (1) (b) of the English Act and for the time being in force, and those Regulations shall apply accordingly with the necessary modifications.

(4) If a person to whom this Article applies was a Scottish contributory employee or a Scottish local Act contributor and is an English local Act contributor he shall, in respect of the reckoning of previous service, enjoy rights and be subject to liabilities similar to those respectively conferred and imposed, in relation to an English contributory employee or an English local Act contributor under an English local authority who ceases to be such and becomes an English local Act contributor under the English local Act authority whose employment the person has entered, by the scheme made by that English local Act authority under section 26 of the English Act and for the time being in force, and that scheme shall apply accordingly, with the necessary modifications.

(5) If a person to whom this Article applies was a Scottish designated employee and is an English contributory employee he shall, in respect of the reckoning of previous service, enjoy rights and be subject to

liabilities similar to those which he would have enjoyed and to which he would have been subject respectively had he been an English designated employee in whose case the provisions of subsections (1) and (2) of section 39 of the English Act have effect.

(6) This Article shall not apply in relation to any employee unless within three months of entering upon his new employment he informs the English local authority whose employment he has entered that he has previously served in the employment of a Scottish local authority, and unless on becoming a contributory employee or local Act contributor he pays to the authority maintaining the superannuation fund relating to the employment in respect of which he is such employee or contributor an amount equal to any sum which, on his ceasing to hold his employment under the Scottish local authority, was paid to him by way of a return, whether with or without interest, of such contributions to or additional contributory payment into a superannuation fund as are mentioned in subsection (5) of section 10 of the Scottish Act or of moneys which pursuant to any Regulations for the time being in force under that Act were treated as such contributions as aforesaid.

Payment of Transfer Values

15. Where a person who was a Scottish contributory employee or a Scottish local Act contributor or a Scottish designated employee has become an English contributory employee or an English local Act contributor in such circumstances that the last preceding Article is applicable in relation to him, a transfer value calculated in the manner prescribed by any Regulations for the time being in force under subsection (1) of section 29 of the English Act or under subsections (1) and (2) of section 39 of that Act, as the case may require, shall be payable, as if the person had previously been an English contributory employee or an English local Act contributor, by the Scottish local authority maintaining the superannuation fund out of which a transfer value would have been payable, had the employee become a Scottish contributory employee or a Scottish local Act contributor, to the English local authority maintaining the superannuation fund relating to the employment which he has entered, to be by them paid into that fund, and the Regulations aforesaid shall apply accordingly, with the necessary modifications.

Contributions of certain employees

16.—(1) In the case of an English contributory employee to whom Article 14 of these Regulations applies and who, had he become a Scottish contributory employee by virtue of the employment in respect of which he is an English contributory employee, would, by virtue of section 6 (1) (a) of the Scottish Act, have been required to contribute to the superannuation fund relating to his employment an amount equal to five per cent. of the remuneration of his employment, the percentage of the remuneration of his English employment which shall be payable by way of contribution to the superannuation fund relating to that employment shall be the same percentage thereof.

(2) An English contributory employee to whom Article 14 of these Regulations applies shall not be required to make any contribution to the English appropriate superannuation fund if, had he become a Scottish contributory employee by virtue of the employment in respect of which he is an English contributory employee, he would have been exempted from liability to contribute to the Scottish appropriate

superannuation fund by virtue of the proviso to subsection (1) of section 6 of the Scottish Act.

Return of contributions

17.—(1) For the purposes of section 10 of the English Act references to the aggregate amount of an employee's contributions to a superannuation fund in subsection (5) thereof, in relation to a person to whom Article 14 applies, shall be deemed to include references to any such contributions or additional contributory payment paid or made by him to a superannuation fund as are mentioned in subsection (5) of section 10 of the Scottish Act, and to moneys paid by him under any Regulations for the time being in force under the Scottish Act which pursuant thereto are to be treated as such contributions as aforesaid.

(2) For the purposes of subsection (1) of section 12 of the English Act the reference to contributions under the English Act in the proviso thereto, in relation to such a person as aforesaid, shall be deemed to include a reference to contributions under the Scottish Act.

Teachers

18. If any English contributory employee to whom Article 14 of these Regulations applies had been entitled as a Scottish contributory employee to reckon under section 15 of the Scottish Act any such service as is mentioned in that section, that service shall be deemed to be service to which section 17 of the English Act applies as if in relation to that service—

- (a) references therein to the Teachers Acts as therein defined were references to the Teachers Acts as defined in the Scottish Act and the Superannuation Scheme framed in pursuance thereof as the case may require ;
- (b) there were substituted for the words " but for any deduction made by the Board of Education under section seven of the Teachers (Superannuation) Act 1925 " the words " if any period which, in order to avoid duplicate pensions, has not been reckoned as service for the purpose of calculating his retiring allowance, had been so reckoned ".

Female nurses, midwives and health visitors

19. If any English contributory employee to whom Article 14 of these Regulations applies is a female nurse, midwife or health visitor who had been in a similar capacity a Scottish contributory employee to whom section 16 of the Scottish Act did not apply, she shall be deemed for the purposes of the English Act to be a person to whom section 16 thereof does not apply.

Persons entering or leaving employment as asylum employees

20. If—

- (a) a Scottish asylum employee ceases to be employed as such or so ceased before the appointed day ; or
- (b) a Scottish contributory employee or a Scottish local Act contributor under a Scottish local authority ceases to be employed as such by them ; or
- (c) a Scottish designated employee ceased before the appointed day to be subject to the Act of 1922 ;

but, on or after the appointed day and within twelve months after so ceasing, is employed by any English body in such circumstances that,

had the English body been a Scottish body, any of the provisions of the Second Schedule to the Scottish Act would have had effect with respect to him, the Scottish body shall be deemed to be an English body for the purposes of the application in relation to him and the English and Scottish bodies concerned of the provisions of Part V of the Second Schedule to the English Act and any Regulations made thereunder and from time to time in force.

Whole-time officers appointed in a temporary capacity

21.—(1) A Scottish contributory employee or a Scottish local Act contributor who ceases to be employed as such and becomes such a whole-time officer of such an English authority as is mentioned in subsection (1) of section 30 of the English Act shall be deemed to have been an English contributory employee or an English local Act contributor for the purpose of the application in relation to him of the proviso to that subsection.

(2) Where such a whole-time officer of an English local authority as is mentioned in subsection (2) of section 30 of the English Act has on or after the appointed day been in the employment of any Scottish authority specified in Part I of the First Schedule to the Scottish Act, that authority shall be deemed to be an authority specified in Part I of the First Schedule to the English Act for the purpose of the application in relation to him of that subsection.

(3) If such a whole-time officer of a Scottish local authority as is mentioned in subsection (3) of section 25 of the Scottish Act ceases to be employed by them on or after the appointed day, and within twelve months after so ceasing becomes a whole-time officer of an authority specified in Part I of the First Schedule to the English Act but by virtue of subsection (1) of section 30 of the English Act does not become a contributory employee or local Act contributor, then, if at that time or later he becomes, by virtue of subsection (2) of the said section or otherwise, a contributory employee or local Act contributor under that English authority, such a transfer value as is mentioned in subsection (3) of the said section shall be payable in manner thereby prescribed as if the Scottish authority had been an English authority.

*Regulations under proviso (ii) to section 8 (2) (b) of the
Scottish Act*

22.—(1) Where a Scottish contributory employee who is in course of paying a sum by instalments under the Regulations made under proviso (ii) to section 8 (2) (b) of the Scottish Act ceases to hold his employment and becomes an English contributory employee in such circumstances that if the employment he holds were a Scottish employment the provisions of paragraph 3 (d) of Article 4 of those Regulations would become applicable in relation to him, the corresponding provisions of the Regulations made under proviso (ii) to section 8 (2) (b) of the English Act and for the time being in force shall apply in relation to him and to the English employing authority as if he had previously been an English contributory employee paying a sum by instalments under those Regulations.

(2) Where a Scottish contributory employee who is in course of paying such a sum by instalments as is mentioned in the preceding paragraph ceases to hold his employment and becomes an English local Act contributor, the provisions of the scheme made under section 26 of the English Act by the English local Act authority whose employment

he has entered and for the time being in force relating to the reckoning of previous service by reference to the aggregate amount paid on account of a sum payable by instalments under Regulations made under proviso (ii) to section 8 (2) (b) of the English Act by a person who having been an English contributory employee has become subject to the local Act scheme administered by that English local Act authority shall apply as if the scheme contained a similar provision in relation to such Scottish contributory employee as aforesaid in terms applicable to the Regulations made under proviso (ii) to section 8 (2) (b) of the Scottish Act.

Service in England after teaching service in Scotland

23. If a person who leaves the employment of a Scottish local authority enters the employment of an English local authority and then or subsequently becomes an English contributory employee, whether by virtue of the English Act or of that Act and these Regulations, in such circumstances that had he become a Scottish contributory employee he would have been entitled to the benefit of section 15 of the Scottish Act in regard to the reckoning of such service as is mentioned in that section, Article 18 of these Regulations shall apply to him in respect of that service as it applies to an English contributory employee to whom Article 14 of these Regulations applies.

Reduction of allowance during re-employment and adjustment of rights thereafter

24.—(1) If a person entitled to superannuation allowance under Part I of the Scottish Act (other than an allowance payable to him in respect of service rendered whether in England or in Scotland as a designated employee and a contributory employee for a period of years during no part of which was he for a continuous period of more than twelve months not a contributory employee or local Act contributor in either country or subject to the Act of 1922), proposes to accept further employment with any English local authority, he shall inform the authority that he is so entitled and, if he enters their employment, shall forthwith give notice in writing that he is so employed to the authority from whom he receives the allowance.

(2) In any such case as aforesaid the superannuation allowance shall be deemed to be an allowance to which subsection (2) of section 31 of the English Act applies and any Regulations made thereunder shall apply accordingly as if references to a local authority or an authority included references to a Scottish local authority or a Scottish authority respectively, and as if references to any provision of the English Act included references to the corresponding provision of the Scottish Act.

PART IV

SETTLEMENT OF DISPUTES BETWEEN ENGLISH AND SCOTTISH LOCAL AUTHORITIES

25. Any question which may arise between an English local authority and a Scottish local authority as to the rights and liabilities of either authority under these Regulations in relation to a person in the employment of a local authority within the meaning of the Scottish Act who has previously been in the employment of a local authority within the meaning of the English Act or a person in the employment of a local authority within the meaning of the English Act who has previously been in the employment of a local authority within the meaning of

the Scottish Act shall be determined in the former case by the Secretary of State and in the latter case by the Minister of Health. [1521]

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LOCAL GOVERNMENT SUPERANNUATION (TRANSFER VALUE) REGULATIONS, 1939

S. R. & O., 1939, No. 329

(97763)

March 18, 1939

The Minister of Health, in exercise of the powers conferred on him by section 29, subsection (3) of section 30, subsections (1) and (2) of section 39 of and paragraph 3 (2) (b) of Part V of the Second Schedule to the Local Government Superannuation Act, 1937, and of all other powers enabling him in that behalf, hereby makes the following Regulations.

PART I

GENERAL

Short Title

1. These Regulations may be cited as the Local Government Superannuation (Transfer Value) Regulations, 1939.

Interpretation

2.—(1) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(2) In these Regulations the expression " the Act " means the Local Government Superannuation Act, 1937.

PART II

TRANSFER VALUES UNDER SECTION 29 OF THE ACT

3.—(1) The transfer value payable under subsection (1) of section 29 of the Act in respect of a person who has ceased to hold one employment under a local authority and has entered one other employment under another local authority shall be calculated in accordance with the provisions contained in the First Schedule to these Regulations.

(2) The transfer value payable under subsection (1) of section 29 of the Act in respect of a person who has ceased to hold one employment and has entered the part-time employment of two or more other local authorities shall be calculated in accordance with the provisions contained in the Second Schedule to these Regulations.

(3) The transfer value payable under subsection (2) of section 29 of the Act shall be calculated in accordance with the provisions contained in the Third Schedule to these Regulations.

PART III

TRANSFER VALUES UNDER SECTION 30 (3) OF THE ACT

4. The transfer value payable under subsection (3) of section 30 of the Act shall be calculated in accordance with the provisions contained in the Fourth Schedule to these Regulations.

PART IV

TRANSFER VALUES UNDER SECTION 39 (1) AND (2) OF THE ACT

5. The transfer value payable under subsections (1) and (2) of section 39 of the Act shall be calculated in accordance with the provisions contained in the Fifth Schedule to these Regulations.

PART V

TRANSFER VALUES UNDER PARAGRAPH 3 (2) (b) OF PART V OF THE SECOND SCHEDULE TO THE ACT

6. The transfer value payable under paragraph 3 (2) (b) of Part V of the Second Schedule to the Act shall be ascertained in accordance with the provisions contained in the Sixth Schedule to these Regulations.

FIRST SCHEDULE

PROVISIONS FOR THE CALCULATION OF TRANSFER VALUES AND DIRECTIONS FOR THE USE OF THE SUBJOINED TABLES IN CONNECTION THEREWITH.

General

1. In this Schedule, the following expressions, unless the context otherwise requires, have the respective meanings hereby assigned to them—

“the material date” in relation to any employee in respect of whom a transfer value is being calculated means the date upon which the employee ceased to hold his former employment ;

“age” in relation to any employee means his age on the material date ;

“remuneration” in relation to any employee means the annual remuneration of his former employment on which contributions were payable by him to a superannuation fund on the material date or in the case of an employee exempted from liability to contribute the annual remuneration of his former employment on the material date or in the case of an employee who had been a local Act contributor the annual amount by which his former employment was remunerated and on which contributions were payable by him to a superannuation fund on the material date :

Provided that if, for the purposes of the foregoing definition, account is required to be taken of any fees payable to the employee in respect of any service, the amount thereof shall be taken to be the annual average of the fees payable to him in respect of that service rendered during the five years immediately preceding the material date or, if that service was of shorter duration, such shorter period :

Provided also that the remuneration of an employee by whom reduced contributions were payable under a scheme in force by virtue of subsection (3) of section 28 of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936, or the corresponding provisions of any Act repealed by that Act, shall, so far as it is attributable to the period of contributing service in respect of which reduced contributions were payable be taken to be the amount of the reduced annual remuneration on which such contributions were payable on the material date or, if the scheme provides for a reduction of contributions by reference directly to contributions which would otherwise be payable, the remuneration of the employee as hereinbefore defined, less twenty times the difference between the aggregate contributions payable by him in respect of the year immediately preceding the material date and the aggregate contributions which would have been so payable by him had no reduction been made :

Provided further that references in the foregoing definition to contributions payable by an employee shall include references to contributions which would have been payable by him but for any reduction or suspension of remuneration by reason of his absence from duty owing to ill-health or injury ;

"service" does not include such service as is mentioned in subsection (1) of section 17 of the Act other than such service as is mentioned in proviso (a) to that subsection or in relation to a person who before he became in his former employment a contributory employee or local Act contributor had at any time been an established officer or servant within the meaning of the Asylums Officers' Superannuation Act, 1909, as extended by any subsequent enactment to whom any Regulations for the time being in force under Part V of the Second Schedule to the Act had been applicable, service prior to his entry into that former employment other than service in respect of which a transfer value was paid on his entry into that former employment and in relation to a person who in his former employment was in the whole-time employment of a single local authority means, in respect of any period of previous part-time employment, whole-time service for a proportionately reduced period :

Provided that the provision in the foregoing definition relating to part-time employment followed by whole-time employment shall not apply in the case of a transferred poor law employee who in his former employment was subject to a local Act scheme with the benefit of such provisions as are mentioned in paragraph (b) of subsection (1) of section 26 of the Act or was a contributory employee with the benefit of any of the following provisions namely paragraphs 3, 5 or 8 of Part I of the Second Schedule to the Act :

"contributing service" in relation to a person who has ceased to be a contributory employee having any non-contributing service which, in relation to his former employment, would have been reckonable for the purpose of calculating his superannuation allowance under Part I of the Act or under the Act as amended by any local Act, if on the material date he had been entitled to a superannuation allowance thereunder, at the rate of some fraction larger than one one-hundred-and-twentieth but not exceeding one sixtieth of remuneration in respect of each such year of service or at the rate of some fraction larger than one one-hundred-and-sixtieth but not exceeding one eightieth of remuneration in respect of each such year of service, as the case may be, includes such proportion of the actual length of that non-contributing service as is obtained by multiplying the number of years of such service by sixty or eighty, as the case may be, and dividing it by the denominator of the fraction at which that service would have been reckonable as aforesaid :

Provided that if as a condition of being so entitled to reckon the said non-contributing service or any part thereof the person had been discharging but had not fully discharged a liability to pay a sum by instalments and is not in the employment he has entered as a contributory employee, such service shall be treated as if the period thereof had been one half its actual length ;

"contributing service" in relation to a person who has ceased to be employed under a local Act authority means service which, in relation to his former employment, would have been reckonable as service or as a period of contribution for the purpose of calculating his superannuation allowance under the local Act scheme if on the material date he had been entitled to a superannuation allowance thereunder :

Provided that if in the case of any such employee any such service as aforesaid was service in relation to which the employee pursuant to the provisions of the local Act scheme, as a condition of being entitled to reckon the said service for any purposes of the local Act scheme, had been discharging but had not fully discharged a liability to pay a sum by instalments to the superannuation fund maintained by the local Act authority or had been under a liability to make payments to that fund by way of a contribution of a percentage of emoluments additional to the percentage payable in respect of current service, the said service shall be treated as if the period thereof had been one half its actual length, unless in the employment he has entered he is a mental hospital employee, in which case the said service shall be disregarded ;

“ non-contributory service ” in relation to a person who has ceased to be a contributory employee does not include any such service as is mentioned in the preceding definition of contributing service in relation to such a person.

2. The transfer value payable in respect of any employee shall be the aggregate of the sums respectively calculated in accordance with the following provisions by reference to his contributing service, if any, and by reference to his non-contributing service, if any :

Provided that such aggregate sum shall—

(a) be reduced by—

- (i) an amount equal to any sum together with any interest on any sum which, when the employee ceased to hold the employment in relation to which the transfer value is payable, was paid to him by way of a return of such contributions to or additional contributory payment into a superannuation fund as are mentioned in sub-section (5) of section 10 of the Act or of moneys which, pursuant to any Regulations for the time being in force under the Act, were treated as such contributions as aforesaid ; and
- (ii) an amount equal to the balance of any debt the right to receive, which is, pursuant to any such Regulations as aforesaid, deemed to be transferred to the local authority whose employment the employee has entered ;

(b) if in relation to the employment which the employee has ceased to hold he had been making any such payments to the superannuation fund concerned as are mentioned in either of the provisos to the definitions of contributing service contained in paragraph 1 of this Schedule, be increased, unless in the employments which he has respectively ceased to hold and entered he was and is a contributory employee, by an amount equal to the aggregate amount so paid, after deduction therefrom of any sum which may have been returned to the employee in respect of such payments as aforesaid.

3. If after a transfer value has been paid out of a superannuation fund relating to the former employment of a person in respect of his entry into one other employment, being a part-time employment under a local authority, that person, within twelve months after the material date, while retaining that part-time employment and without having ceased to hold any other employment which he may have held on the material date as a contributory employee or local Act contributor, enters the part-time employment of another local authority or of two or more other local authorities and becomes such an employee or contributor as aforesaid, the transfer values payable shall be calculated under the provisions of this Schedule as if the person had simultaneously entered all the employments he has entered on or after the material date and as if his remuneration in relation to each part-time employment he has entered were such proportion of his annual remuneration on the material date as the annual remuneration or emoluments of that part-time employment bears to the aggregate amount of the annual remuneration or emoluments of the part-time employments, and the transfer value already paid shall be adjusted accordingly.

Contributing Service

4.—(1) The sum to be calculated by reference to an employee's contributing service shall be ascertained in accordance with the provisions of this paragraph.

(2) The amounts shown in columns (2) and (3) of the relative Table in relation to an age which corresponds with that of the employee are to be multiplied respectively by the numbers of years, and of months aggregating less than one year, of contributing service completed on the material date.

(3) The sum of the two products aforesaid is an amount appropriate in respect of £100 of remuneration.

(4) A total amount is to be calculated proportionately by reference to the remuneration of the employee.

Non-contributing Service

5.—(1) The sum to be calculated by reference to an employee's non-contributing service shall be ascertained in accordance with the provisions of this paragraph.

(2) The amount shown in column (4) of the relative Table in relation to an age which corresponds with that of the employee is to be multiplied by the number of years of non-contributing service completed on the material date, a fraction of a year, if it amounts to or exceeds six months, being treated as a year, any other fraction being disregarded.

(3) The product aforesaid is an amount appropriate in respect of £100 of remuneration.

(4) A total amount is to be calculated proportionately by reference to the remuneration of the employee.

Table I.—Officers (other than female nurses, midwives and health visitors in whose case the age of compulsory retirement is sixty years).

Age. 1.	Amount for £100 of remuneration in respect of each completed period of		
	Contributing Service.		Non-contributing Service.
	Year. 2.	Month. 3.	Year. 4.
	£ s. d.	£ s. d.	£ s. d.
Under 35	11 8 0	0 19 0	5 0 0
35 and under 36 ..	11 8 0	0 19 0	5 0 0
36 „ „ 37 ..	11 8 0	0 19 0	5 0 0
37 „ „ 38 ..	11 8 0	0 19 0	5 0 0
38 „ „ 39 ..	11 9 0	0 19 0	5 1 0
39 „ „ 40 ..	11 11 0	0 19 0	5 2 0
40 „ „ 41 ..	11 13 0	0 19 0	5 3 0
41 „ „ 42 ..	11 15 0	1 0 0	5 4 0
42 „ „ 43 ..	11 17 0	1 0 0	5 5 0
43 „ „ 44 ..	11 19 0	1 0 0	5 6 0
44 „ „ 45 ..	12 2 0	1 0 0	5 8 0
45 „ „ 46 ..	12 6 0	1 1 0	5 10 0
46 „ „ 47 ..	12 10 0	1 1 0	5 12 0
47 „ „ 48 ..	12 14 0	1 1 0	5 14 0
48 „ „ 49 ..	12 19 0	1 2 0	5 17 0
49 „ „ 50 ..	13 4 0	1 2 0	6 0 0
50 „ „ 51 ..	13 10 0	1 3 0	6 3 0
51 „ „ 52 ..	13 16 0	1 3 0	6 6 0
52 „ „ 53 ..	14 3 0	1 4 0	6 9 0
53 „ „ 54 ..	14 10 0	1 4 0	6 13 0
54 „ „ 55 ..	14 17 0	1 5 0	6 17 0
55 „ „ 56 ..	15 5 0	1 5 0	7 1 0
56 „ „ 57 ..	15 14 0	1 6 0	7 6 0
57 „ „ 58 ..	16 4 0	1 7 0	7 12 0
58 „ „ 59 ..	16 16 0	1 8 0	7 18 0
59 „ „ 60 ..	17 8 0	1 9 0	8 4 0
60 and over	18 0 0	1 10 0	8 10 0

Table II.—Female nurses, midwives and health visitors in whose case the age of compulsory retirement is sixty years.

Table I shall apply subject to the following modifications, namely :—

(a) the amount shown in column (2) in relation to an age which corresponds with that of the employee is to be increased by six shillings and threepence for each completed year by which her

age exceeds thirty, with a maximum addition of seven pounds ten shillings ;

- (b) for the amount shown in column (3) in relation to such age there shall be substituted an amount equal to one twelfth of the amount ascertained under sub-paragraph (a) of this paragraph ; and
- (c) the amount shown in column (4) in relation to such age shall be increased by three shillings and threepence for each completed year by which the age of the employee exceeds thirty, with a maximum addition of three pounds eighteen shillings :

Provided that in the case of an employee whose age is fifty-five or over, the increased amounts under sub-paragraphs (a) and (c) of this paragraph shall not in any event exceed twenty-two pounds fifteen shillings and ten pounds nineteen shillings respectively.

Table III.—*Servants*

Age. 1.	Amount for £100 of remuneration in respect of each completed period of		
	Contributing Service.		Non-contributing Service.
	Year. 2.	Month. 3.	Year. 4.
	£ s. d.	£ s. d.	£ s. d.
Under 25	7 10 0	0 12 0	3 3 0
25 and under 26 ..	7 10 0	0 12 0	3 3 0
26 " " 27 ..	7 11 0	0 13 0	3 4 0
27 " " 28 ..	7 13 0	0 13 0	3 5 0
28 " " 29 ..	7 15 0	0 13 0	3 6 0
29 " " 30 ..	7 17 0	0 13 0	3 7 0
30 " " 31 ..	7 19 0	0 13 0	3 8 0
31 " " 32 ..	8 2 0	0 14 0	3 9 0
32 " " 33 ..	8 5 0	0 14 0	3 10 0
33 " " 34 ..	8 8 0	0 14 0	3 12 0
34 " " 35 ..	8 11 0	0 14 0	3 14 0
35 " " 36 ..	8 14 0	0 15 0	3 16 0
36 " " 37 ..	8 17 0	0 15 0	3 18 0
37 " " 38 ..	9 1 0	0 15 0	4 0 0
38 " " 39 ..	9 5 0	0 15 0	4 2 0
39 " " 40 ..	9 9 0	0 16 0	4 4 0
40 " " 41 ..	9 13 0	0 16 0	4 6 0
41 " " 42 ..	9 17 0	0 16 0	4 8 0
42 " " 43 ..	10 1 0	0 17 0	4 10 0
43 " " 44 ..	10 5 0	0 17 0	4 12 0
44 " " 45 ..	10 9 0	0 17 0	4 14 0
45 " " 46 ..	10 14 0	0 18 0	4 16 0
46 " " 47 ..	11 0 0	0 18 0	4 19 0
47 " " 48 ..	11 7 0	0 19 0	5 2 0
48 " " 49 ..	11 14 0	0 19 0	5 6 0
49 " " 50 ..	12 1 0	1 0 0	5 10 0
50 " " 51 ..	12 9 0	1 1 0	5 14 0
51 " " 52 ..	12 17 0	1 1 0	5 18 0
52 " " 53 ..	13 6 0	1 2 0	6 2 0
53 " " 54 ..	13 15 0	1 3 0	6 7 0
54 " " 55 ..	14 5 0	1 4 0	6 12 0
55 " " 56 ..	14 15 0	1 5 0	6 18 0
56 " " 57 ..	15 6 0	1 6 0	7 4 0
57 " " 58 ..	15 18 0	1 7 0	7 10 0
58 " " 59 ..	16 12 0	1 8 0	7 17 0
59 " " 60 ..	17 7 0	1 9 0	8 4 0
60 and over	18 0 0	1 10 0	8 10 0

SECOND SCHEDULE

1. The transfer value payable in any case to which this Schedule applies shall be calculated in accordance with the provisions of the First Schedule to these Regulations except paragraph 3 thereof, and those provisions shall apply accordingly but subject to the following provisions of this Schedule.

2. The expression "remuneration" as defined in the First Schedule to these Regulations shall, in relation to each of the part-time employments which an employee has entered, be construed as meaning such proportion of his annual remuneration on the material date as the annual remuneration or emoluments of that part-time employment bears to the aggregate amounts of the annual remuneration or emoluments of the part-time employments.

3. If after a transfer value has been paid out of the superannuation fund relating to the former employment of a person in respect of his entry into the part-time employments of two or more local authorities, that person, within twelve months after the material date, while retaining those part-time employments and without having ceased to hold any other employment which he may have held on the material date as a contributory employee or local Act contributor, enters the part-time employment of another local authority or of two or more other local authorities and becomes such an employee or contributor as aforesaid, the transfer values payable shall be calculated under the preceding paragraphs of this Schedule as if the person had simultaneously entered all the employments he has entered on or after the material date, and the transfer value already paid shall be adjusted accordingly.

THIRD SCHEDULE

1. The transfer value payable in any case to which this Schedule applies shall be calculated in accordance with the provisions of the First Schedule to these Regulations except paragraph 3 thereof and those provisions shall apply accordingly, but subject to the following provisions of this Schedule.

2. The expression "remuneration" as defined in the First Schedule to these Regulations shall be construed as meaning such proportion of the annual remuneration of an employee on the material date in the whole-time employment of the single local authority whose part-time employment he has entered as the annual remuneration or emoluments of the part-time employment he has also entered under another local authority bears to the aggregate amount of the annual remuneration or emoluments of the part-time employments.

3. If after a transfer value has been paid out of the superannuation fund relating to the former whole-time employment under a single local authority of a person in respect of his entry into the part-time employment of another local authority, that person, within twelve months after the material date and while retaining the part-time employments he has entered, enters the part-time employment of another local authority or of two or more other local authorities and becomes a contributory employee or local Act contributor, the transfer values payable shall be calculated under the provisions of the Second Schedule to these Regulations except paragraph 3 thereof, as if the person has simultaneously entered all the employments he has entered on or after the material date, and the transfer value already paid shall be adjusted accordingly.

FOURTH SCHEDULE

The transfer value payable in any case to which this Schedule applies shall be a sum calculated by reference to the employee's non-contributing service in the employment of the local authority by whom he was last employed and ascertained in accordance with the provisions of the First Schedule to these Regulations except paragraph 3 thereof, and those provisions shall apply accordingly subject to the modifications that the expression "remuneration" as therein defined shall be construed as meaning the annual remuneration of the employee, or in the case of a person who had been an employee of a local Act authority his annual emoluments, on the material date and that

the following provision shall be substituted for sub-paragraph (2) of paragraph 5, namely "(2) One twelfth of the amount shown in column (4) of the relative Table in relation to an age which corresponds with that of the employee is to be multiplied by the number of months of non-contributing service completed on the material date."

FIFTH SCHEDULE

The transfer value payable in any case to which this Schedule applies shall be calculated in accordance with the provisions of the First Schedule or the Second Schedule to these Regulations, as the case may require, and the appropriate provisions shall apply accordingly, subject to the following, and any other necessary modifications, that is to say—

- (a) the references to annual remuneration of his former employment and to annual remuneration on the material date in the definitions of "remuneration" shall be construed as references to annual salary or wages within the meaning of the Act of 1922 of his former employment and to annual salary or wages within the meaning of the Act of 1922 on the material date respectively ;
- (b) the expressions "contributing service" and "non-contributing service" respectively shall be construed as meaning service which immediately before the date on which the employee ceased to be subject to the Act of 1922 he was entitled to reckon as contributing service and non-contributing service respectively for the purposes of that Act in relation to the employment which he then ceased to hold under a local authority.

SIXTH SCHEDULE

1. Any transfer value which falls to be ascertained in accordance with the provisions of this Schedule shall, if it is payable in respect of a contributory employee or local Act contributor who has ceased to be employed as such by a local authority, be calculated in accordance with the provisions of the First Schedule to these Regulations except paragraph 3 thereof.

2. Any transfer value which falls to be ascertained in accordance with the provisions of this Schedule shall, if it is payable in respect of a designated employee who had ceased before the appointed day to be subject to the Act of 1922, be calculated in accordance with the provisions of the Fifth Schedule to these Regulations.

* * * * *

[1522]

LOCAL GOVERNMENT SUPERANNUATION (ADMINISTRATION) REGULATIONS, 1939

S. R. & O., 1939, No. 330

(95686)

March 18, 1939

The Minister of Health, in exercise of the powers conferred on him by subsection (6) of section 36 of the Local Government Superannuation Act, 1937, and of all other powers enabling him in that behalf, hereby makes the following Regulations.

PART I

INTRODUCTORY

1. These Regulations may be cited as the Local Government Superannuation (Administration) Regulations, 1939.

2.—(1) In these Regulations the expression "the Act" means the Local Government Superannuation Act, 1937.

(2) The Interpretation Act, 1889, applies to the interpretation of

these Regulations as it applies to the interpretation of an Act of Parliament.

PART II

RELATIONS AND FINANCIAL ARRANGEMENTS BETWEEN ADMINISTERING AUTHORITIES AND OTHER LOCAL AUTHORITIES INTERESTED IN THE SUPERANNUATION FUNDS MAINTAINED BY ADMINISTERING AUTHORITIES

Payments by employing authorities to administering authorities

3.—(1) Every employing authority, not being an administering authority, shall pay to the appropriate administering authority, in addition to any other sums which the employing authority may, under or in pursuance of the provisions of the Act, become liable to contribute to the appropriate superannuation fund—

- (a) all amounts from time to time deducted from the remuneration of their contributory employees under subsection (3) of section 6 of the Act ;
- (b) such annual sum payable during such period not exceeding forty years from the date as at which any valuation of the appropriate superannuation fund is made by an actuary under section 22 of the Act as may be agreed between the employing authority and the administering authority or in default of agreement be determined by the Minister to be necessary in order that any amount certified by the actuary in his report on that valuation to be payable by the employing authority may be paid into the appropriate superannuation fund by means of annual payments having the same capital value as the amount aforesaid ; and
- (c) a contribution towards the cost of the administration of the appropriate superannuation fund of such annual amount as may be agreed between the employing authority and the administering authority or in default of agreement as may be determined by the Minister :

Provided that sub-paragraphs (a) and (c) of this paragraph shall not apply in relation to an employing authority being a constituent authority of a joint superannuation committee.

(2) Payment of any sum payable under paragraph (1) of this Article shall be made at such intervals, not being longer than twelve months, as the appropriate administering authority may determine.

(3) The payment by an employing authority of any sum due under paragraph (1) (a) of this Article shall be accompanied by a statement showing—

- (a) the names and respective remuneration of the contributory employees in relation to whom the payment is made ;
- (b) the amounts comprised in the payment which represent deductions from the remuneration of each of those employees and the periods in respect of which such deductions were made ;
- (c) details of any remuneration of those employees from or in respect of which deductions have not been made ; and
- (d) the names of any contributory employees from whose remuneration no deductions have been made :

Provided that any appropriate administering authority may dispense with the requirements of this paragraph and in lieu thereof direct the

employing authorities interested in the appropriate superannuation fund to furnish the information provided for in this paragraph in such form and at such intervals, not being longer than twelve months, as they may specify.

(4) If any sum due under the provisions of this Article remains unpaid beyond a period of one month after the date on which it becomes due, the sum shall bear interest at the rate of 5 per cent. per annum as from the expiration of that period.

Transmission of documents and information by employing authorities to administering authorities

4.—(1) Every employing authority, not being an administering authority, shall forthwith upon receipt transmit to the appropriate administering authority every statement rendered to them by any contributory employee under subsection (4) of section 6 of the Act, together with the statutory declaration accompanying the statement.

(2) Every such employing authority shall from time to time furnish the appropriate administering authority with such information as that authority may reasonably require for the purpose of discharging their functions under the Act in relation to any of the contributory employees of the employing authority or any person claiming under him.

(3) References in paragraph (2) of this Article applicable to employing authorities, administering authorities and contributory employees shall be construed as including references to authorities or employees who will or may become such authorities or employees on the appointed day.

Actuary's certificates and valuation of superannuation fund

5.—(1) Forthwith upon receipt of any certificate, valuation or report under section 22 of the Act, an administering authority shall send copies thereof to any other local authority interested in the superannuation fund maintained by the administering authority.

(2) Not less than one month before submitting any scheme to the Minister under subsection (6) of section 22 of the Act the administering authority shall send a copy of the scheme to each such other local authority as aforesaid, and upon the submission of the scheme to the Minister any such local authority may make representations thereon to him.

(3) This article shall not apply to a joint superannuation committee in relation to any constituent authority of such committee.

Local Government and Civil Service (Superannuation) Rules, 1936

6.—(1) An employing authority, not being an administering authority, to whom the Treasury has directed that the Local Government and Civil Service (Superannuation) Rules, 1936, shall apply shall forthwith in writing notify the appropriate administering authority of the direction.

(2) In the event of a contributory employee of any such employing authority becoming as an established Civil Servant an officer to whom Part II of those Rules apply—

- (a) the authority shall forthwith furnish the appropriate administering authority with a copy of any notice received by them from the employee under Rule 7;
- (b) before making any record in their minutes or issuing any notification under paragraph (1) of Rule 10 in relation to the

officer, the authority shall obtain the written approval of the appropriate administering authority to the terms of the record proposed to be made and of the notification proposed to be issued ;

- (c) the authority shall authorise the appropriate administering authority to conduct on their behalf any proceedings instituted under Rule 5 or paragraph (2) of Rule 10, and if the Minister determines any question raised by such proceedings, the appropriate administering authority shall furnish the authority with a copy of the Minister's announcement of the determination ;
- (d) the authority shall furnish the appropriate administering authority with a copy of any notice received by them under paragraph (3) of Rule 10 in relation to the officer ;
- (e) any sum which may become payable under the Rules to the officer by way of superannuation allowance or return of contributions and interest (if any) shall be paid by the appropriate administering authority out of the appropriate superannuation fund, but any extra charge resulting from any resolution passed by the authority under Rule 9 (1) (a) shall be repaid to the fund by the authority.

(3) In the event of an established Civil Servant becoming as a contributory employee of the authority an officer to whom Part III of the Rules apply—

- (a) the authority shall forthwith furnish the appropriate administering authority with a copy of any notification received by them under Rule 16 in relation to the officer ;
- (b) if it becomes the duty of the authority to give any notification under Rule 20 in relation to the officer, the appropriate administering authority shall on the application of the authority furnish them with the information necessary to enable them to do so.

(4) This article shall not apply to any constituent authority of a joint superannuation committee.

Accounts and audit

7. As soon as may be after any audit of the superannuation fund maintained by them, every administering authority shall furnish to any other local authority interested therein copies of the revenue account and balance sheet of the fund and of any report of the auditor on his audit of the fund.

Settlement of disputes

8. Any question which may arise between an administering authority and any local authority interested in the superannuation fund maintained by the administering authority relating to the construction of these Regulations or to the rights and obligations of either body thereunder shall be determined by the Minister.

PART III

EXCHANGE BETWEEN LOCAL AUTHORITIES OF INFORMATION WITH REGARD TO THE SERVICE, ETC., OF CONTRIBUTORY EMPLOYEES AND LOCAL ACT CONTRIBUTORS IN CASES OF TRANSFER

9.—(1) A local authority, when paying a transfer value to another local authority in accordance with section 29 of, or paragraph (3) (2)

(b) of Part V of the Second Schedule to, the Act in respect of a contributory employee or local Act contributor who has ceased to be employed as such, shall furnish the person and the authority to whom the transfer value is paid with a statement containing the following particulars, namely—

- (a) date of person's birth ;
- (b) whether he was an officer or servant ;
- (c) his class or description ;
- (d) whether his employment was whole-time or part-time, and, if the latter, what proportion of whole-time employment this represented ;
- (e) the rate of his contribution ;
- (f) details of his previous service, showing each local authority by whom he has been employed, dates of commencement and termination of each employment, whether whole-time or part-time employment, and, if the latter, what proportion of whole-time employment this represented, the remuneration or emoluments received by him in respect of service rendered during each of the five years immediately preceding the day on which he ceased to hold his previous employment, and in what manner the service was reckonable under the Act, or the local Act scheme, as the case may be, to which the person was last subject before transfer ;
- (g) details of the amount (if any) which, on his ceasing to be subject to the Act or the local Act scheme, as the case may be, would have been returnable to him in respect of such contributions to or additional contributory payment into a superannuation fund as are mentioned in subsection (5) of section 10 of the Act or of moneys which pursuant to any Regulations for the time being in force under the Act are to be treated as such contributions as aforesaid ; and
- (h) details of the sum (if any) which was paid to him by way of a return of such contributions or payment of moneys as aforesaid on his ceasing to be subject to the Act or the local Act scheme, as the case may be.

(2) A local authority, when paying a transfer value in respect of any person in accordance with subsections (1) and (2) of section 39 of, or paragraph (3) (2) (b) of Part V of the Second Schedule to, the Act in respect of a designated employee who had ceased before the appointed day to be subject to the Act of 1922, shall furnish similar information by reference to the Act of 1922 to that provided for in paragraph (1) of this Article, which shall apply accordingly in that case, with any necessary modifications.

(3) Where an administering authority receiving a transfer value in respect of any person are not the employing authority, they shall furnish that authority with a copy of the statement received by them under this Article.

PART IV

NOTIFICATION TO THE MINISTER OF CONDITION OF SUPERANNUATION FUND MAINTAINED BY THE COUNCIL OF A COUNTY DISTRICT

10. If the number of contributory employees entitled to participate in the benefits of the superannuation fund maintained by an administering authority who are the council of a county district is on the

appointed day or becomes at any time thereafter less than one hundred the authority shall forthwith notify the Minister to that effect. [1523]

* * * * *

CASES

Transferred Officers—Officer Transferred in 1930—Whether “in the Service on July 28, 1925” —Poor Law Officers’ Superannuation Act, 1896 (c. 50)—Local Government Act, 1929 (c. 17), ss. 119, 124.

Plaintiff entered the service of the S. Board of Guardians as a poor law officer in 1895, and remained there until 1930, when, under the provisions of the Local Government Act, 1929, s. 119, he was transferred to, and became an officer of, defendant council. While in the service of the S. Board of Guardians, he made the annual contributions required by the Poor Law Officers’ Superannuation Act, 1896, but, not having elected, under the Local Government Act, 1929, s. 124, within three months after being transferred to defendant council, to remain subject to the Act of 1896, he became subject to the council’s superannuation scheme, as amended under the provisions of the Local Government Act, 1929, s. 124 (2) (b). This scheme, which was deemed to have come into operation on July 28, 1925, provided, *inter alia*, by cl. 15 (2), that contributors should be entitled to a pension after having attained the age of sixty years and completed forty years with the council. There was a proviso to cl. 15 to the effect that: “In the case of a contributor who was in the service on July 28, 1925, the lump sum payable on retirement shall be increased by $\frac{1}{2}$ per cent. for each year of contribution completed at that date”. The amending scheme for the case of transferred officers provided that the council’s superannuation scheme should apply to every transferred officer while in the service of the council, subject to the modification (*inter alia*) that any service prior to the appointed day which would have been treated as service for the purposes of the Act of 1896 should be treated as service in respect of which he had contributed to the fund. Plaintiff duly made his contributions under the council’s scheme, as amended, until he voluntarily retired in 1938, having reached the age of sixty-four years and having completed more than forty years’ service with the council and the S. Board of Guardians. It was not disputed that he was entitled to a pension, but the question arose whether he was a contributor who was “in the service on 28th July, 1925”, and, therefore, also entitled to the extra $\frac{1}{2}$ per cent. in accordance with the proviso to cl. 15. Plaintiff contended that, as the words “service under the council” in cl. 15 (2), included previous service, then similar words elsewhere in the scheme must be construed to have a similar meaning:—

Held: the words “in the service on 28th July, 1925”, plainly meant in the service of the council, and there was no sufficient context to justify their being given some other meaning.—CLAY v. LONDON COUNTY COUNCIL, [1939] 2 All E. R. 67; 83 Sol. Jo. 339; 37 L. G. R. 269; Digest Supp. [1524]

Gratuity to Employee Dismissed on Ground of Ill-health—Resolution to Grant—Enforceability by Employee—Resolution to Pay Gratuity in Weekly Instalments—Whether ultra vires—Poplar Borough Council Superannuation and Pensions Act, 1911 (c. cii), s. 8 (2).

Defendants were empowered by a local Act to grant a gratuity not exceeding twice the amount of his salary at the time of the determination

of his employment (payable out of the general rate, and not out of the superannuation fund) to any employee losing his office by reason of ill-health. Defendants in pursuance of that power passed a resolution granting to plaintiff a gratuity of £268 16s. 10d., and the resolution continued: "the distribution thereof be at the rate of 10s. per week, provided that, in the event of the decease before the total amount of the gratuity is paid, particulars of any dependants shall be reported to the Finance Committee for their consideration and direction". The council made weekly payments amounting to £9 10s., and then plaintiff claimed the immediate payment of the whole balance, contending that, upon the passing of the resolution, he acquired a legal right to the payment of the whole amount:—

Held: (i) the passing of the resolution in pursuance of the Act did not create a contract or impose any legal obligation on the defendants to pay either the lump sum or the instalments;

(ii) the terms of the Act did not prevent defendants from granting a gratuity payable by instalments.—*HOLLOWAY v. POPLAR CORPN.* [1940] 1 K. B. 173; [1939] 4 All E. R. 165; 109 L. J. K. B. 39; 161 L. T. 384; 103 J. P. 419; 56 T. L. R. 46; Digest Supp. [1525]

Scheme Apart from Superannuation Acts—Powers of Local Authority—Contract—Registration—Superannuation and other Trust Funds (Validation) Act, 1927 (c. 41)—Companies Act, 1929 (c. 23), s. 357.

In 1897, a municipal corporation purchased the undertaking of a tramways and omnibus company in accordance with the terms of a private Act of Parliament, which provided that existing officers and servants of the company should not be obliged to contribute to the superannuation fund of the corporation unless they desired, to do so. In 1900, the corporation established a tramways benefit society, which was an unincorporated and unregistered association, to raise funds from its members by means of voluntary subscriptions and levies for certain specified purposes beneficial to its members, including the provision of superannuation allowance, if and when its funds permitted. Its funds did not admit of the payment of superannuation benefit, and in 1908 the corporation established a Tramways Benefit Society Retirement Fund, which was also an unincorporated and unregistered association, the object of which was to provide superannuation allowances. Before becoming a member of the fund, each of the corporation's many employees who joined signed a written agreement whereby he agreed with the trustees that he should be bound by its rules, and that his subscription should be deducted each week from the wages payable to him by the corporation, and paid on his behalf to the fund, in accordance with the fund's rules. These rules also provided that the corporation should make certain payments to the fund. On the authority of this purported agreement, the corporation paid its contributions, and also made deductions from wages and paid them into the fund. In 1920, the society was wound up, and its surplus assets were handed over to the fund. In February, 1936, on discovering the actuarial insolvency of the fund, the corporation made no more payments to the fund, but continued to deduct each member's contribution of 2d. per week from his wages and to pay such contributions to the fund. In an action where two of plaintiffs sued on behalf of themselves and all other members of the committee of management, and one as treasurer of the fund and two others on behalf of themselves and all other members of the fund:—

Held: (i) the power to contribute to a superannuation fund for the benefit of its employees can fairly be regarded as incidental to the carrying on of a tramway undertaking as well by a municipal as by any other corporation, and is, therefore, *intra vires* the corporation;

(ii) the fact that under certain general Acts provision had been made, in certain cases and under certain safeguards, for the grant by local authorities of superannuation allowances, and, further, that, under certain special Acts, the corporation had been similarly authorised to establish superannuation funds and pay superannuation allowances, did not exclude the participation by a local authority in a voluntary superannuation scheme as incidental to the carrying on of a commercial undertaking;

(iii) the fund was not an illegal association through any infringement of the Companies Act, 1929, s. 357, as it was not formed for the purpose of carrying on any business which had for its object the acquisition of gain, nor were the transactions of the fund properly described as mutual insurance;

(iv) the fund was not illegal, owing to lack of registration under the Superannuation and other Trust Funds (Validation) Act, 1927, as none of the trusts or dispositions of the property of the association infringed the rule against perpetuities;

(v) there was no contract, whether on the basis of an offer by the corporation and an acceptance by each member within the principle of *Carlill v. Carbolic Smoke Ball Co.*, [1893] 1 Q. B. 256; 12 Digest 55, 370, or otherwise, between the corporation and the members of the fund, or the treasurer or committee of management, which entitled the members or the treasurer or the committee of management to sue the corporation.—*ARMOUR v. LIVERPOOL CORPN.*, [1939] 1 Ch. 422; [1939] 1 All E. R. 363; 108 L. J. Ch. 147; 160 L. T. 208; 103 J. P. 111; 55 T. L. R. 397; 83 Sol. Jo. 276; 37 L. G. R. 175; Digest Supp. [1526]

TEACHERS

See EDUCATION.

TOWN AND COUNTRY PLANNING

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ORDERS, CIRCULARS AND MEMORANDA

TOWN AND COUNTRY PLANNING ACT, 1932

Circular 1821

May 18, 1939

SITES FOR TERRITORIAL ARMY ASSOCIATIONS

Sir,—I am directed by the Minister of Health to state that it has been represented to him by the Secretary of State for War that the

expansion of the Territorial Army has made it imperative that additional accommodation for recruiting and training should be secured without delay.

With a view to securing the necessary expedition with a minimum of interference with the proposals of Planning Authorities, it is proposed that County Territorial Associations, when they require a site in a particular town or area, shall approach the Planning Authority and ask for their assistance in finding a suitable site, stating the conditions to which the site must conform to meet recruiting and training requirements. The provisions of the Town and Country Planning Act, 1932, do not apply to the acquisition or development of land by the Secretary of State, and the Minister understands that in view of the special urgency for the acquisition of this additional accommodation for the Territorial Army lengthy discussion of the merits of alternative sites will not be possible. County Territorial Associations will be advised to emphasise this urgency and to ask that their application for help in finding a site should be answered within 14 days, failing which they should proceed to find a site themselves, in which case of course planning considerations would be secondary.

The Minister desires to point out that, in the interests of efficiency and of the members of the Territorial Army themselves, it is generally desirable that the Headquarters should be easy of access from the men's places of residence rather than from the places where they work. It will therefore often be necessary that the building should be situated in a residential zone; in which, in the case of a private developer, a place of assembly could be erected only with the consent of the responsible authority. The sites required will vary in area from half an acre for small detachments to 4 or 5 acres for the larger and more technical units.

The Minister feels sure that the responsible authorities will do what they can to meet the needs of the expanding Territorial Army and will gladly avail themselves of these proposals for consultation which are designed to enable due weight to be given to planning considerations. It is suggested that to this end the Chairman of the Planning Committee, with the Clerk and the Planning Officer, should be authorised to negotiate with the representatives of the Territorial Association.

I am, Sir, etc. [1527]

TOWN AND COUNTRY PLANNING

Circular 1834

July 19, 1939

Sir,—I am directed by the Minister of Health to state that representations have been made to him with regard to the undesirable situation which may arise in an area where a Planning Scheme is being prepared by a Joint Committee or the County Council if decisions as to interim development are issued by the Interim Development Authority which conflict with the proposals of the Planning Authority.

The provision in the Town and Country Planning (General Interim Development) Order, 1933, under which the Interim Development Authority in respect of any land in regard to which a scheme is being prepared by a County Council or a Joint Committee is, with certain exceptions, the Council of the District in which the land is situate, was devised primarily for the sake of expedition and administrative simplicity and for the convenience of the persons desirous of under-

taking development. Proposals for development must necessarily be referred to the Local Authority of the District in compliance with the local byelaws as to new streets and buildings, and it is of manifest advantage that the authorities to whom a developer must apply for the necessary consents to proceed should be as few as possible. It is, however, contemplated that Interim Development Authorities will at all times work in close liaison with the Planning Authority, and it is of the utmost importance that in dealing with proposals for interim development the Interim Development Authorities should be aware of, and pay due regard to, the intentions of the Planning Authority with respect to the planning of the area as a whole.

While the responsibility for the control of interim development rests with the District Council and it is not suggested that their position is merely that of agents for conveying the decisions of the Planning Authority, none the less a serious conflict of views between the two bodies must necessarily create difficulties for the latter. It is indeed obvious that the work of the Planning Authority would be largely wasted if interim decisions out of harmony with the intentions of the proposed scheme were given with any frequency, and in the event of a situation of this kind developing the Minister might well have to consider the question of transferring the control of interim development to the County Council or some other appropriate Authority.

I am, Sir, etc. [1528]

PLANNING MAPS

Circular 1873

September 21, 1939.

SIR,—I am directed by the Minister of Health to state that he has received representations from the Defence Departments on the importance of securing that no information which might be of value to an enemy should be shown on Planning Maps, e.g., in reference to the location of R.A.F. landing grounds, aerodromes, munitions factories or other large industrial establishments, research and experimental establishments or other establishments or works belonging to or associated with the Defence Departments.

I am, therefore, to request that steps may at once be taken to secure that any information of this nature shall be omitted from such maps. If in any case it is considered necessary to indicate any buildings at all in connection with any establishment of this kind, the utmost care should be taken that no name or other indication (e.g., characteristic layout) should appear on the map which would enable it to be identified as an establishment belonging to a Defence Department.

As the Authority are aware, the general practice in dealing with Crown property on Planning Scheme Maps is to apply to it the zoning which would be appropriate in the case of any other property and it appears to the Minister that ordinarily this practice might suitably be followed as regards the establishments above-mentioned.

I am, Sir, etc. [1529]

TRANSFER OF OFFICERS

See OFFICERS OF LOCAL AUTHORITIES.

TRUNK ROADS

See HIGHWAYS.

VALUATION LIST

See RATES AND RATING.

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See POLICE.

WATER SUPPLY

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ORDERS, CIRCULARS AND MEMORANDA

MINISTRY OF HEALTH

Memorandum 221

MEMORANDUM ON THE SAFEGUARDS TO BE ADOPTED IN DAY TO DAY ADMINISTRATION OF WATER UNDERTAKINGS GENERAL

1. The prevention of water-borne diseases was the chief and almost the only concern of sanitation as it was understood a hundred years ago. Recent events have shown that even now it can be achieved only by careful and constant supervision of supplies of drinking water. Between 1911 and 1937 there occurred 21 outbreaks of disease, conveyed by public water supplies, of such gravity as to merit detailed mention in the annual reports of the Medical Officer of the Local Government Board and the Chief Medical Officer of the Ministry of Health. Pollution prior to storage and distribution was responsible for 13 of these outbreaks, four of the 13 involving overground supplies and nine of them underground supplies. Pollution during storage occurred in two cases. Pollution during distribution appears to have occurred in six instances. The numbers of known cases of disease resulting from these outbreaks were :

enteric fever (including paratyphoid) 1,237 ; bacillary dysentery 2,800 ; and gastro-enteritis 7,489.

2. The Minister has recently *brought to the notice of all water undertakers the need for unremitting care in the supervision of the water supplies for which they are responsible. Particular stress was laid upon the importance of effective collaboration and co-operation between the various officers responsible for the conduct and efficiency of the undertaking and also between the water undertakers and the local authorities of areas served by them. The importance of this aspect of water administration is again emphasised.

3. The object of this memorandum is to draw attention to the precautions which should be taken in the day to day administration of water supplies. These precautions are no more than are already recognised as good practice in water administration and water undertakers should carefully review their arrangements and take appropriate steps in the light of the circumstances of their undertaking to improve their practice where this is necessary.

4. There are in England and Wales some 530 local authorities and 15 joint bodies supplying water under the Public Health Acts, and 260 local authorities, 33 joint bodies and 173 water companies supplying water under powers given by Special Acts. Three-quarters of the population of the country is supplied with water obtained from over-ground sources—from rivers, streams and springs—and the remaining one-quarter from wells and borings into water-bearing strata. All the bodies referred to are under statutory obligation to provide wholesome water for the use of their consumers. The variety of sources and conditions is such that it is not possible to lay down any one method applicable to every case of ensuring the fulfilment of this obligation. Undertakers must have regard to the circumstances in their own areas, e.g., the nature and situation of the source from which the supply is drawn and the character and formation of the gathering ground, and must themselves decide, on competent advice, the machinery and methods of control which are most suitable to their own local conditions.

HEALTH OF WORKMEN EMPLOYED ON WATERWORKS

5. Careful discrimination should be exercised in the selection of workmen employed on waterworks other than works where no risk to the purity of the water supply is likely to arise, and the clinical history of each such workman, particularly with reference to enteric infection, should be thoroughly investigated in order to determine his suitability for this kind of employment. Any man attacked by illness associated with looseness of the bowels should be suspended from work until his recovery is complete and medical examination shows that he is safe to return to work. Every new man proposed to be employed on any part of the works where there is risk of his contaminating the water should be examined by means of a Widal test of his blood in order to ascertain whether or not he is likely to be a typhoid carrier. If a positive result is obtained which is not attributable to preventive inoculation, he should not be employed unless bacteriological examination of his excreta on at least three occasions shows negative results as regards the presence of pathogenic bacteria.

In the case of local authorities who are water undertakers, these examinations should be arranged for by their Medical Officer of Health,

* Circular 1684 dated 12th March, 1938.

who will review all the circumstances and whose decision on the question of the employment or continued employment of any man for this kind of work should be final. The Medical Officer of Health or other expert medical adviser should be similarly consulted in the case of other water undertakers.

GENERAL CLEANLINESS OF WATERWORKS

6. All buildings, machinery, apparatus and yards used for waterworks purposes should be kept scrupulously clean. Proper and adequate sanitary accommodation and washing facilities should be provided at any part of the works where men are regularly employed. All such accommodation should be regularly inspected, and all drains should be periodically tested in order to ensure that no leakage occurs.

PROTECTION OF SOURCES OF SUPPLY

7. Whatever the source of supply may be, and whether or not purification treatment is given to the water before it is brought into service, every effort should be made to secure that so far as is practicable the raw water is protected from pollution.

Upland Overground Sources

8. Where the source of water supply is a reservoir impounding the head waters of a stream or an intake near the source of the stream, the water undertakers should, wherever reasonably practicable, acquire the whole of the gathering ground above the reservoir dam or the intake, and protect the reservoir or intake by adequate fencing. Steps should be taken to secure that drainage from farmyards or houses remaining on the gathering ground or the manuring of land on the gathering ground does not pollute the source of supply.

9. Where it is not practicable to acquire the gathering ground and thus control it, it should be part of the routine duty of the water undertakers' staff to make regular and frequent inspections of the whole of the gathering ground with a view to detecting possible causes of pollution. Any building development on the gathering ground should be carefully watched for risk of contamination of the source of supply.

Springs

10. Where the source of supply is a spring, a sufficient area of land surrounding the spring should be acquired by the water undertakers to enable them to apply adequate protective measures, and a close watch should be maintained by the water undertakers' staff over the area in the vicinity of the spring so that any possible source of pollution may be quickly detected.

River Supplies

11. Where a supply is obtained from the lower reaches of a river or stream regular and frequent inspections should be made of the course of the river or stream above the intake with a view to ascertaining the likelihood of pollution being discharged.

Underground Sources

12. A well or borehole forming a source of supply should be made watertight to such a depth as will prevent any surface pollution from entering, and there should be an efficient sealing between the casing of the borehole and the surrounding ground. Periodic inspections of wells and boreholes should be made in order to ensure that the lining is sound.

The water undertakers should acquire a sufficient area of land surrounding the site of the well or borehole to enable them to protect the immediate surroundings. Where the well or borehole is on or near to the outcrop of the strata from which the water is drawn, it should be the routine duty of the water undertakers' staff to make regular and frequent inspections of the area within at least two miles of the site of the well or boring with a view to detecting possible causes of pollution. Particular attention should be paid to any cesspools and soakaways in such an area and the water undertakers should satisfy themselves that danger to their source of supply is not likely to arise from them. Further, a map showing details of any sewerage system within this area should be kept.

13. The inspections by the water undertakers' staff referred to in the preceding paragraphs should be carefully recorded and reports made to the water undertakers or their appropriate Committee. Each report should draw special attention to any alterations which have occurred on the gathering ground since the preceding report. Where the reports indicate a possible cause of pollution of the source of supply, the water undertakers should take such action as may be available to them to remove it. It will be appreciated that these reports will assist materially in interpreting the results of periodic analyses of the raw water.

ANALYSES*

14. Where water is being supplied without treatment, the water undertakers should make frequent and regular analyses of the water in order to satisfy themselves that this practice may safely be continued. If there is a tendency to fluctuation in the composition or bacterial content of the water, or if inspection of the gathering ground of the source of supply shows possible risk of pollution, analyses should invariably be made at very short intervals. How frequently and at what times the analyses should be made must depend on local conditions and this question should be determined in the case of each water undertaking by the expert views of their advisers after consideration of the local conditions.

15. The results of any analyses must be read in the light of the nature of the source and the condition of the gathering ground, and it is not possible to lay down any hard and fast standard which would be applicable to all supplies. If, however, as a result of analyses and of the inspection of the gathering ground, the water undertakers, acting in the case of local authorities on the advice of their Medical Officer of Health and in other cases on the advice of their experts, have any grounds for suspecting that the water cannot be made and kept free from risk of becoming unwholesome they should not hesitate to subject the water to an effective method of treatment.

16. Where the water is treated it is important that regular analyses should be made of the raw water as well as of the treated water. It will not of course be necessary to make such frequent analyses of the raw water when treatment is given as when it is not, but the analyses should be of sufficient frequency to enable an adequate check to be kept on the character of the raw water as a guide to the treatment required.

* For information as to the technique of water analysis see "Reports on Public Health and Medical Subjects No. 71—the Bacteriological Examination of Water Supplies" obtainable (price 1s. 8d. net) from H.M. Stationery Office.

TREATMENT OF WATER

17. The conversion of a polluted and therefore dangerous water into a safe potable water is a matter requiring the greatest care if the health of the consumer is not to be jeopardised. There is often a tendency to think that, provided arrangements are made for chlorination, safety is secured whatever the condition of the raw water. It cannot be sufficiently stressed that a policy of reliance on a single line of defence between the consumer and a polluted source of water supply is fraught with danger. Not only should every effort be made, as has been suggested above, to keep the source as free as possible from pollution, but, wherever practicable, the method of treatment should be such as to provide at least two lines of defence, such as, for example, chlorination or other effective form of sterilisation after storage or filtration.

18. Treatment plant should at all times not only be under the supervision of properly trained persons, but should also as far as possible be automatically controlled. Where the treatment includes chlorination, the dosage should be automatically and continuously recorded. The dosage should also be such as to leave residual chlorine after a reasonable period of contact, the period required being determined by the undertakers on expert advice, and frequent tests should be made to ensure this.

SERVICE RESERVOIRS

19. Service reservoirs from which water passes direct to the consumer should, wherever practicable, be covered. An open reservoir of this kind is dangerous, because any pollution entering it reaches the consumer in a short space of time, and if it is not practicable to cover it, the water should be adequately chlorinated as a safeguard.

Care should be taken to ensure that pollution cannot enter reservoirs through ventilators, manholes, washouts and overflows. Service reservoirs should be periodically inspected with a view to detecting any cracks or other defects which may develop and permit the access of pollution to the water.

MAINS AND HYDRANTS

20. All new mains should, after connection with the supply system, but before being used to convey water to consumers, be thoroughly flushed. Where possible chlorinated water should be used for this purpose. Mains that have been cut and repaired should be similarly treated.

The arrangement of air valves and air vents to mains should be such that there is no possibility of pollution entering the mains through them.

21. Ball hydrants form a ready means of ingress of polluting matter into water mains and are therefore a potential source of danger. Water undertakers should take the first opportunity of having them replaced by safer types of hydrant.

WORKS OF REPAIR AND CLEANING

22. It is of the first importance that the arrangements made where works of repair or extension are being carried out are such as to obviate any risk of danger to the health of the consumer from contamination of the water supply. Instructions to workmen as to their conduct while engaged on such works should be in precise terms, and it should be made clear to them that any breach of the instructions will be followed by dismissal.

23. Where pumps or other machinery have been removed from a

well or borehole for cleaning or repair, they should be thoroughly cleansed with chlorinated water before being replaced. New pumps or other machinery should be similarly treated before being inserted in the well or borehole.

Wells and Headings

24. Where work is proceeding in a well or heading, the water therefrom should, whenever possible, be cut out of supply and pumped to waste. If this is not possible, the water should be subjected to an effective method of treatment during the period while the work is proceeding and for a period of at least one week after the work has been completed.

25. The workmen should be provided with boots and overalls which should be kept at the waterworks, and the boots should be cleansed with chlorinated water on every occasion before the men enter the well.

26. Sanitary arrangements should be provided at the surface and so designed that any risk of the men's boots being fouled is avoided. Pails, of a type which minimises the risk of splashing or overturning, should be provided for micturition where the men are working. Strict instructions should be given that any man wishing to defæcate must be brought to the surface and that micturition should take place in the pail provided.

Service Reservoirs and Filters

27. Precautions similar to those referred to in the preceding paragraph should be taken as regards the provision of sanitary arrangements for men engaged in cleaning reservoirs or filters. The pails for micturition purposes should be placed as near as conveniently possible to the place where the men are actually working. In the case of service reservoirs the precautions set out in paragraph 25 should be observed.

28. Service reservoirs when cleaned should be thoroughly sluiced with clean water, the water being chlorinated wherever practicable.

MAPS

29. Each water undertaker should keep an up-to-date record in the form of maps and plans of the sites of their sources of supply and reservoirs and of their distribution system, so that they can ascertain readily how each property in their area is served. A diagram of the pipes and valves in and around engine houses and reservoirs should also be kept.

[1530]

* * * * *

CASES

Domestic Purposes—Trade or Business—Supply to Medical Practitioner—Water Used in Mixing Medicines Supplied to Patients—Kingston-upon-Hull Corporation Act, 1897 (c. ccxlii), s. 82—Kingston-upon-Hull Corporation Act, 1911 (c. lxxvi), s. 39.

Appellants were the undertakers for the public supply of water within the area prescribed by the Kingston-upon-Hull Corporation Act, 1897. Respondent was a medical practitioner residing in the district. He used his residence also as a surgery and dispensary, where he was visited by patients, to whom he supplied medicine as required. Water was laid on to both hot and cold taps in a part of the surgery which was

partitioned off. It was admitted that the water was used for cleaning and disinfecting surgical instruments and similar articles, and for washing purposes. The water from the cold tap was used for household drinking purposes, and for diluting medicines. The corporation claimed that, in addition to the rate for domestic supply, the respondent was liable to a charge for the use of water for purposes other than domestic, as set out in a list of rates and charges issued by them under the head of "Miscellaneous Water Supplies : Minimum annual charges : Druggist or dispensary" :—

Held : the water was used for a domestic purpose, within the meaning of the Kingston-upon-Hull Corporation Act, 1897, s. 82, and it made no difference that it was used in a dispensary or surgery in the course of the doctor's professional duties, either for diluting medicine or for washing his instruments. It was not a question of the quantity of water used.—KINGSTON-UPON-HULL CORPN. *v.* YUILLE, [1939] 2 K. B. 769 ; [1939] 2 All E. R. 48 ; 160 L. T. 448 ; 103 J. P. 153 ; 83 Sol. Jo. 216 ; 37 L. G. R. 324 ; Digest Supp.—C. A. [1581]

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